

The Special Court in The HAGUE has passed the following sentence in the case of the Chief Prosecutor against

HAAS ALBIN RAUWER,

born 4th. Febr. 1895 in MLAGENBURG (Austria),
S.S.-Obergruppenführer, General der Waffen-S.S. und Polizei, former
Höhere S.S.- und Polizeiführer and General-Kommissar für das Sicherheitswesen in the Occupied Netherlands Territories,
now in custody in the Callenberakken in Scheveningen,

Accused.

The Special Court;
In view of the investigation held at the sitting;
Having heard the demand of the Chief Prosecutor;
Having heard the accused, who was assisted by Dr. K. van
RIJCKEVURSEL, advocate, The Hague;
Considering that the accused has been charged;

I. that he, during the war between the Netherlands and Germany begun on 10th May 1940, as Höhere S.S.-und Polizeiführer and General-Kommissar für das Sicherheitswesen in the enemy-occupied Netherlands, between June 1940 and March 1945, being in the war and state service of the enemy and charged with the care for public peace and order, the command over the Waffen-S.S. units and the German police units and organs, the supervision of and giving of orders to the Netherlands police in the occupied Netherlands territory, and in the course of the occupation invested with legislative powers in the sphere of public order and safety, contrary to the laws and customs of war and in connection with the war of aggression waged against among others the Netherlands, intentionally carried out a policy, whereby the accused intentionally, in the framework of the German policy of persecution of the Jews, the object of which was to eliminate the Jews from Europe and exterminate them or at anyrate a great portion of them, which policy was already begun in the occupied Netherlands in 1940, in so far as such depended on him took those measures considered officially necessary for the success of this policy in the Netherlands, namely the issuing of statutory regulations and the supervision and guidance of the activities of the police subordinated to him, the general object being the segregation, congregation and arrest of the Jews as part of their deportation across the German frontier which, as the accused must have foreseen, resulted for many in their death, since according to data produced by the Red Cross, of the approximately 140.000 Jews who were deported only about 6.000 returned;

II. the accused intentionally, in the framework of the German policy of the "Arbeitseinsatz" (mobilisation of labour), in so far as such depended on him took those measures considered officially necessary for the success of this policy in the Netherlands, such as having "raids" (raids) and check-ups carried out by the police subordinated to him with the object of catching those liable to labour service (ordered 15th. July 1943), the introduction of control by means of the second rations registration card (preparation begun summer 1943), and the setting up of the "Arbeitkontrolldienst" (decree dated 14th April 1944), by which mobilisation of labour the workers seized from among the civilian population of the occupied Netherlands were deported to Germany with a view to slave labour, many of them dying as a result,

-at least-

at least 500.000 Netherlands, according to data from the Rijksinstituut voor Oorlogsdocumentatie (National Institute for War Documentation), having been taken off to Germany for labour service during the German occupation, some 9.000 having been seized in check-ups and razzias between 7th Jan. and 1st Sept. 1944 alone and sent to that country via the Durchgangslager (transit camp) in Amersfoort;

III.

the accused intentionally, after the "Rücksichtslose Beschlagnahme der Hausinventaris (ruthless seizure of household contents)" belonging to Netherlands citizens "die sich gegen die Besatzungsmacht vergangen oder feindlich eingestellt haben (who have injured or shown themselves hostile to the Occupying Power)" had been decided upon in the framework of the systematic robbing of the Netherlands population of household articles, clothing etc., ordered by Goering in Aug. 1943, took the necessary measures to ensure that this was drastically carried out by the German police under his command, as a result of which from then on these goods were stolen on a large scale from Netherlands citizens, while replacement at that time was impossible or practically impossible;

IV.

the accused intentionally, by decree dated 13th May 1943, declared the confiscation of wireless sets in the Occupied Netherlands Territories and ordered that these be handed in, this order being reinforced by threats, which threats were supplemented in Oct. 1943 by that of declaring the whole contents of the house confiscated, this way compelling many Netherlands to surrender their sets and thus depriving them unjustly of their property;

V.

the accused intentionally, by razzias held on 6th Febr. 1943, by a call to report which was reinforced by threats (against among others, parents and guardians), this about 5 th May 1943, and by later arrests, got hold of a great number of Netherlands students and placed them at the disposal of the relevant German authorities for deportation to Germany, about 1300 students being seized in the razzias in February 1943, according to data supplied by the Rijksinstituut voor Oorlogsdocumentatie, while about 5300 reported in May and many others were caught later, and a number of them died as a result of the deportation;

VI.

the accused intentionally, about Aug. 1943, in order to frighten them from going into hiding, decreed that if Netherlands police officials arbitrarily left the service and went into hiding their next-of-kin were to be immediately arrested by the Sicherheitspolizei and taken to a concentration camp, as a result of which order numerous relatives of Netherlands police officials were robbed of their liberty;

VII

the accused intentionally, as a retaliation for actions directed against the Occupying Force or regarded as being so directed, systematically applied the following measures;

- a) collective fines, imposed by him or "in Vertretung" for him, on municipalities as a result of cables being damaged and other personal actions for which the population as a whole could not be considered mainly responsible;
- b.) taking away the contents from houses, (at the same time the robbery for the benefit of that mentioned under III and in particular that which took place after this was introduced);
- c.) the arrest and imprisonment of innocent civilians (very often the next-of-kin of a person really being looked for) or the holding of razzias (also for the benefit of the "Arbeitsersatz" mentioned under II), and the carrying off of the persons then taken prisoner, while it was a matter of general knowledge that the treatment received in German imprisonment was as a rule very bad and resulted in the death of many, a great number of those thus robbed

-of their

of their liberty having in fact died;

- d.) reprisal murders of Netherlands civilians during which
1. civilians were shot on or after arrest, or (especially after the allied advance through France and Belgium) while they already happened to be in German imprisonment for another act than that for which the reprisal murder took place;
 2. from Sept. 1943 onwards the murder action known under the name of "Silbertanne" was carried out, this being an arrangement by which members of the Germanic (Netherlands) S.S. in collaboration with the Sicherheitspolizei shot down free civilians as a reprisal for attacks on creatures of the enemy, the perpetrators of which crimes (assassinations) were ostensibly not found; by which policy carried out in this manner and more particularly by that mentioned under I, II, V, VI and VII, RAUWER intentionally committed systematic terrorism against the Netherlands nation;
- Considering that the accused has disputed the competence of this Court by advancing that he ought not to be tried by a Netherlands judge but by an international one;
- Considering with regard to this that accused's counsel has among other things appealed here to art. 3 of the Penal Code and art. 43 A of the Law, containing general provisions, which articles lay down that the competence of the Netherlands Judge is limited by the exceptions recognised in international law;
- Considering that the greatest diversity of opinion reigns among writers on international law with regard to the question as to whether soldiers in enemy territory are subject to the penal laws prevailing there, so that there can be no talk of an exception recognised by international law;
- Considering that the Netherlands legislator has judged it necessary to make provisions so that the possibility of judging those who when serving with or under the enemy have been guilty of war crimes or crimes against humanity may be put beyond doubt; that the Judiciary in the Netherlands is not allowed to test the law for its intrinsic value and is also obliged to apply the same without comment, but that furthermore there is no need to put the legitimacy of the said law in doubt for there is no rule of international law which forbids a belligerent state, either during or after hostilities, to punish war criminals who are in its power;
- that it might perhaps be recommendable that an international Court should exist which could be charged with the trial of war criminals, but that international justice has not yet advanced so far;
- that for that reason after the first world war the winners laid the duty of trying their criminals on the vanquished themselves, but that nothing much came of this;
- that in these circumstances, law and justice are better served now that the winners are themselves taking in hand the trial of the serious crimes committed by the Germans during the present war than if these crimes were to be left unpunished;
- that moreover the guarantees offered by Netherlands law to every accused in order that he may be enabled to defend himself fully remain unaffected;
- Considering that the accused has appealed to the rule "nulla poena sine praevia lege";
- Considering with regard to this that it is true this principle is laid down in article of the Penal Code but that the appeal to it fails, because in virtue of article 3 of the Extraordinary Penal Law Decree the article in question is not applicable;

/ with the Law of 10th. July 1947 /

-considering-

Considering that this rule does not mean a limitation of the sovereignty of a state, but is a principle of law from which the legislator can depart if in his opinion the circumstances give cause for this;

Considering that the question can be put as to whether the legislator was competent to make article 1 of the Penal Code inapplicable as far as the trial of war criminals is concerned; especially as article 23h of the Rules of Land Warfare forbids that the rights and claims of the opponent's subjects be declared invalid, suspended or inadmissible, but that this article only forbids a discriminatory treatment of enemy subjects and its object is not to bring about changes in the legislation which, as is the case in the present instance with the abrogation of article 1 of the Penal Code, apply equally to its own subjects and to those of the enemy country; that, moreover, it is generally accepted that the war crimes appearing in the Charter belonging to the London Agreement of 8th Aug. 1945 do not form any new law but only give a formulation of International Law that already existed before the war and was laid down in conventions and especially in the Rules of Land Warfare, and ^{which} were therefore already made punishable in articles 65 and 91 of the Military Penal Code in conjunction with article 78 **"Introducing Law Military Penal and Disciplinary"** Law; while moreover the acts charged against the accused fall under provisions of the ordinary Penal Law; that Counsel has also brought up the question as to whether from a moral standpoint the legislator has the right to make an alteration in the penal law with retroactive effect, and in this connection has quoted the "Draft International Covenant on Human Rights", drafted by a commission specially brought into being for that purpose by the United Nations, which lays down in article 14: "No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed. (par 2) Nothing in this article shall prejudice the trial and punishment of any person for the commission of an act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations;" That in the opinion of the Court the condition appearing in paragraph 2 of this article is in fact present;

Considering that the accused has in the third place appealed to the Convention of Geneva of 27th July 1929, which would forbid his being tried by this Court;

Considering that the Geneva Convention which is applicable to the accused lays down in article 63 that a sentence on a prisoner of war can only be pronounced by the same courts and in accordance with the same procedure as with regard to persons belonging to the forces of the holding power; Considering that this does not, as Counsel has argued, bring with it that the accused ought to have been tried by the Supreme Military Court, as in accordance with the decree on the Special Courts (art. 12, recently amended by the Law of 3rd July 1947, Stat. bk. N 222) the dealing with offences committed in territory occupied by the enemy does not belong to the Competence of the Military Judge but to that of the Special Court in the composition of which the military element is represented;

~~Considering that the Special Courts in the composition of which the military element is represented;~~

Considering that the accused's further appeal to article 46, par 1, of the said convention prescribing that no punishments may be given other than those laid down for the same acts with regard to soldiers belonging to the national armies, and to article 6 of the Rules of Land Warfare, fails, because article 27a of the Special Penal Law Decree, with the violation of which the accused is charged, equally applies to all who when in the state or public service of or under the enemy have been guilty of any war crime against humanity, so that this article also applies to a Netherlands soldier who would have violated it;

-considering-

F [law stating date of coming into force of main law & laying down provisions for applying same, etc. Here art. 78 declares the Military Judge competent to judge civilians living in an area declared in a state of siege.]

Considering finally that the accused has ~~not~~ appealed further to article 62 of the Geneva Convention of 27th. July 1929 which lays down that prisoners of war have the right to be assisted in their defence by a competent Counsel of their own choice and if necessary to make use of a competent interpreter;

Considering with regard to this;

that in a letter to the President of the Special Court dated 18th. Jan. 1947 the accused requested the latter to assign him a counsel;

that this request was complied with and as a result the accused has had the assistance of such a counsel at the trial;

that the accused has never objected in any way to the choice of the counsel assigned to him;

that the accused has certainly brought forward at the trial that he wished to have a German Counsel but that, apart from the question as to how far according to Netherlands law this wish is susceptible of being granted, had he really wished for such legal assistance he should have brought this fact to the notice of the Court or of its President earlier;

that a competent interpreter has been present during the whole hearing of this case;

that on these grounds the accused's appeal to the aforesaid article 62 is rejected;

Considering that during the sitting statements have been made by the witnesses and accused and documents read out by the President or by the Clerk of the Court, or at anyrate a short announcement made of their contents, containing in substance what appears below;

Decree of the Reich Commissioner for the Occupied Netherlands Territories concerning the Organisation and Establishment of the Office of the Reich Commissioner, of 3rd. June 1940 (Verordeningblad (Gazette) 4/40) in so far as it contains.

Par. 1 For the fulfilment of his official duties the Reich Commissioner for the Occupied Netherlands Territories, will act through general Commissioners who are members of his staff and who head the following sections:

1)

2) Public Safety (Superior S.S. and Police Chief (Höhere S.S.- und Polizeiführer))

Par. 2. The Superior S.S. and Police Chief

1) shall command the units of the military S.S. and the German police forces transferred to the Occupied Netherlands Territories;

2) shall supervise the Netherlands state and municipal police forces and issue to them the necessary orders.

Announcement by the Reich Commissioner for the Occupied Netherlands Territories concerning Staff

Matters, 5th June 1940 in so far as it contains:

I have appointed ----- as General Commissioner

2) Public Safety, S.S. Brigadeführer HANS RAUHER (Höhere S.S.- und Polizeiführer),

ACCUSED:

that he was appointed Höhere S.S. und Polizeiführer in the Occupied Netherlands Territories by HITLER personally;

that on this occasion he received the following orders in substance from the latter:

1. As Höhere S.S. und Polizeiführer to maintain peace and order under all circumstances in the Netherlands;

2. To work in harmony with the Reich Commissioner, DR. SMITS IN 'T HART;

3. To work in harmony with the Commander in Chief of the Wehrmacht in the Netherlands, General CHRISTENSEN;

4. To evoke sympathy for the great Germanic conceptions among the Netherlands population.

-5- To work-

5. To work in harmony and bring about a good understanding with the working portion of the Netherlands people; that he was further appointed General Commissioner for Public Safety;

Witness GORWIEBER:

that during the occupation here the accused had the double function of General Commissioner for Public Safety and Superior S.S. and Police chief (Höhere S.S. und Polizeiführer), which last function came down in brief to his being charged by HITLER with "die politische Führung der hier in seinem Bereich liegenden Einheiten und Dienststellen der S.S. und der Polizei und Headquarters (the political direction of the S.S. and Police units here in his zone)"; that in Germany the Höhere S.S. und Polizeiführer were HITLER's representatives in a Wehrkreis (military district), HITLER combining in his own person the party function of Reichsführer der S.S., that is, head of all the S.S. units, and the superior function of Chef der Deutschen Polizei which came under the Reichsminister der Inneren (Reich Minister of the Interior); that in the Netherlands the Befehlshaber der Sicherheitspolizei, the Befehlshaber der Ordnungspolizei and the Befehlshaber der Waffen S.S. came under RAUTER; that the Befehlshaber der Sicherheitspolizei, who was in command of the Sipo, was also the representative of HEYDRICH who was under HITLER, ^{and who} was leader of the Reichs-Sicherheitshauptamt and head of the Sicherheitspolizei, to which latter body the Staatspolizei and Kriminalpolizei belonged; that after HEYDRICH died in June 1942 he was followed by KALTENBRUNNER; that in this country RAUTER's position was stronger than that of a Höhere S.S. und Polizeiführer in Germany, among other things because he was also a General Commissioner in which function he could for example make orders (Verordnungen), while further he had HITLER's support- in many matters and with the latter's help could get his own way; that through HITLER he had more ^{and} quicker contact with HITLER than had SEISS INQUART; that he, witness, considered RAUTER to be the second ranking person in the Netherlands, who with HITLER's help sometimes had more influence than SEISS INQUART; that he, witness, considers the accused to be chiefly responsible for all reprisals, but that the imposition of fines, seizure of wireless sets, the "Arbeitseinsatz" and so on belonged more to the competency of the Reich Commissioner, the Wehrmacht or other authorities than to that of the accused;

Statement (procès-verba/1) by Dr. J. ZAAIJER, Chief Prosecutor to this Court further to be called Statement III) in so far as it contains the statement by Dr. WILHELM HARTNER:

"The opinion that "The instructions ^{which} assigning their duties to the Superior S.S. and Police Chiefs, ^{which} were very short but capable of agreeably wide interpretation, led to the fact that, according to their ^{different} mentalities and their wish to achieve great things, they extended their powers and interfered more and more in the executive tasks of the police, giving orders direct. As the Superior S.S. and Police Chiefs were not professionals their activity operated of necessity to the detriment of the professional work of the police forces", - is one with which I can fully agree as regards the situation in Germany. The extent to which the influence of the Superior S.S. and Police Chiefs could prevail depended in a large measure on the personality of their closest collaborators.

The position of the Superior S.S. and Police Chief in the Netherlands was essentially stronger as he enjoyed express authority to issue orders.

From the R.S.H.A. (Reichssicherheitshauptamt) instructions were issued on questions in general, for instance in the technical domain. In every day matters on the other hand Berlin's influence was practically nil. Where the Superior S.S. and Police Chief intervened in the executive in Netherlands affairs his influence prevailed absolutely.

It is quite correct when it is said: "RAUHE, as Superior S.S. and Police Chief, strove from the beginning to take as an intensive a part as possible in the direction of executive activities." This was too his duty from the very fact that he was Befehlshaber. It is not right to create the impression that there differences of opinion always existed between RAUHE and me because of his intruding into professional police matters. It was much more the case that he left purely professional matters to me when it became clear to him that he could safely do so. If differences of opinion did arise it could be attributed rather to the fact that an affair looks different when viewed professionally or, on the other hand, from a political point of view, the superior having eventually to make the decision from his political view point."

Accused:

that his function here in the Netherlands as assigned to him by HITLER comprised, in addition to the supervision of the Netherlands police, the Command over all the German police; that he received daily reports from the Sipo (Sicherheitspolizei) the Orpo (Ordnungspolizei) and the Waffen-S.S.; that in any particular case he could ask these units for information; that the Befehlshaber der Sicherheitspolizei in the Netherlands were successively: : NOCKEMANN, who left in 1940 after the so called "carnation" demonstration; HARSNER, from July 1940 till Sept. 1943; MAULHAGEN, from Oct. 1943 till June 1944; SCHONGERHART from June 1944 till the end of hostilities; that he, the accused, remained in function till March 1945;

Judgment of the international military tribunal for the Trial of German major war criminals, NUREMBERG 30th Sept. and 1st. October 1946: London, His Majesty's Stationery Office (to be called the Judgment) pages, 62 and 63:

"The Nazi persecution of Jews in Germany before the war, severe and repressive as it was, cannot compare, however, with the policy pursued during the war in the occupied territories. Originally the policy was similar to that which had been in force inside Germany. Jews were required to register, were forced to live in ghettos, to wear the yellow star, and were used as slave labourers. In the summer of 1941, however, plans were made for the "final solution" of the Jewish question in all of Europe. This "final solution" meant the extermination of the Jews, which early in 1939 HITLER had threatened would be one of the consequences of an outbreak of war, and a special section in the Gestapo under ADOLF EICHMANN, as head of Section B 4, was formed to carry out the policy.

The plan for exterminating the Jews was developed shortly after the attack on the Soviet Union. Part of the "final Solution" was the gathering of Jews from all German occupied Europe in concentration camps. Their physical condition was the test of life or death. All who were fit to work were used as slave labourers in the concentration camps; all who were not fit to work were destroyed in gas chambers and their bodies burnt. Beating, starvation, torture and killing were general."

A statement (procès-verbal) made out on oath of office by T.J. van DIEN, police inspector also special constable and V. van der BURG, police detective also special constable, further to be called Statement II) in so far as it contains. (pages 3 and 4):

the Statement by Dr. W. HARSNER, former General-Leutnant der Polizei;

"When dealing with the Jewish question three divisions must be distinguished:

- 1) The concentration in camps of all Jews in the Netherlands, which was carried out on tactical military grounds of a preventive nature. This was ordered by the Reich Commissioner. The execution of it was handed over to German Sicherheitspolizei placed under the command of the General Commissioner for Public Safety (Generalkommissar fuer das Sicherheitswesen). As the Befehlshaber der Sicherheitspolizei could not carry out this task with the force at his disposal the Netherlands police had to be called in to collaborate. These received their instructions in the matter direct from the General Commissioner for Public Safety or through the police Commandants.

2. The deportation/

2. the deportation of Jews from Netherlands camps.

This deportation, together with some technical units, was directly entrusted to the Befehlshaber der Sicherheitspolizei by the R.S.H.A. (Reichssicherheitshauptamt) as the executive office of the Reichskommissar zur Lösung der Judenfrage" (Reich Commissioner for the solution of the Jewish question).

3. Detailed order for the treatment of Jews who had broken the laws and violated orders was given direct to the Befehlshaber der Sicherheitspolizei by the R.S.H.A.

RAUWER, both as Hoehere S.S. und Polizeifuehrer, under the Reichsfuehrer S.S., and also as Generalkommandeur fuer das Sicherheitswesen, was naturally associated with the treatment of the Jewish question, because of course the Sigo, which was charged with the carrying out of this, came under him. I do not remember having received orders based on principle from RAUWER in Jewish matters. The Sigo got their orders in connection with Jewish affairs direct from the R.S.H.A.

HILGER was president of the R.S.H.A., while RAUWER was his representative in the Netherlands and therefore associated himself actively in these matters. He corresponded with HILGER about them. In my opinion RAUWER's activity can be chiefly attributed to the fact that the R.S.H.A. complained to HILGER about the slow progress of Jewish matters in the Netherlands and HILGER therefore applied to RAUWER."

A Statement (proofs-verbal) made out on oath of office by Dr. J. ZAMMER, Chief Prosecutor to this Court further to be called Statement III, containing (p.15) the statement of the afore-said

Dr. W. HILGER:

"The concentrating of the Jews in the Netherlands was from the beginning a Netherlands matter in the domain of the General Commissioner for Public Safety. Instructions were only issued from Berlin with-in the framework of the general treatment of the Jewish question. RAUWER joined in strongly in the treatment of Jewish matters. I know definitely that the R.S.H.A. was at first discontented at the slow way the Jewish affair was being dealt with in Holland. It will have been at HILGER's request that RAUWER then busied himself so actively with it. He had comprehensive reports given him and issued instructions. I cannot remember details now."

Photostat of a newspaper report of 15th Sept. 1941 (E 9) containing the text of an order by the accused in which the Jews were forbidden to take part in public gatherings and to make use of public institutions in so far as these were destined for public amusement, recreation or information, to visit public parks and zoos, cafes and restaurants, to use dining and sleeping cars, to visit theatres, cabarets, variety shows and cinemas, to visit sports clubs, including swimming baths, to remain in and make use of public libraries, reading rooms and museums."

Photostat of a newspaper report of 29th. April 1942 (E 12) containing an announcement by the accused in which it was laid down under threat of penalty: "A Jew must wear a Star of David when appearing in public".

Photostat of a newspaper report of 22nd. June 1942 (E 13) containing an order by the accused in which it was laid down under threat of penalty: "Bicycles belonging to Jews must be limited in by 24th. June 1942 at the latest".

Photostat of a newspaper report of 30th June 1942, (E 14) containing an order by the accused in which it was laid down: "Jews must remain indoors between the hours of 8 p.m. and 6 a.m." and in which they were forbidden "to enter hair-dressing and other establishments of a semi-medical nature", and were further forbidden "to enter any railway-yard and to make use of any public or private means of transport".

-photostat-

Photostat of a letter from the accused to HEIMER, dated 10th Sept. 1942 (E 16) containing among other things:

"The rounding up of the Jews is making us rack our brains to the uttermost. I will on no account fail to make use of any pull I may have for what is gone is lost. The mixed marriages have been classified up to 15-10-42 and the munition workers, diamond cutters and so on, so that with this the great purge can begin in Holland. By that time both the big Jewish camps I have had built will be ready, one in WESTERBORK near ASSEN and one in VUGHT near 's-HERTOGENBOSCH. I shall then be able to ^{introduce} 40,000 Jews into the two camps. I am harnessing up everything that can exercise police or assistant police functions, and anything anywhere that looks like belonging legally or illegally to Jewry will be shoved into both these camps after 15.10.42."

Photostat of a letter from the accused to the Generalkommissar fuer Verwaltung und Justiz (General Commissioner for General Administration and Judiciary) S.S. und Brigadefuehrer Dr. WILDER, dated 17th. Sept. 1942 (E 10) containing:

"I shall take proceedings against any member of the Netherlands police forces who opposes the order of the German Police to arrest Jews. Such police officials, irrespective as to whether they belong to the State or Municipal police, will not only be dismissed the service but disciplinary action must also be taken against them".

Photostat of a letter from the accused to HEIMER dated 24th. Sept. 1942 (E 17) in which he writes about the 5000 Jews who are in the so-called "relief works" camps (Verkehrvermittlungslager) and their 22,000 relatives:

"On 1st. October the relief works camps will be occupied by me at one blow and the same day the relatives outside them will be arrested and taken into the two large newly erected Jewish Camps in WESTERBORK near ASSEN and Vught near 's-HERTOGENBOSCH. I will try to get hold of 3 trains per week in place of 2. These 30,000 Jews will now be pushed off from 1st. Oct. onwards. I hope that by Christmas we shall ^{get} have these 30,000 Jews away too so that a total of 50,000 Jews, that is half, will then have been moved from Holland.

On 15 th. Oct. Jewry in Holland will be declared outlawed, that means that police action on a large scale will begin, and not only the German and Netherlands police organs will be called on to take part but also the labour forces of the N.S.D.A.P., Party organisations, N.S.B., Wehrmacht and so on. Every Jew who is come across anywhere in Holland will be put into the large camps. So it will come about that no Jew, unless a privileged one, will be seen any longer in Holland. At the same time I will start the announcements according to which Aryans who hide Jews or help them over the border, and who have forged identity papers will have their property seized, and the perpetrators will be taken to a concentration camp; all this in order to prevent the flight of the Jews, which has started on a large scale".

Photostat of a letter from the accused to HEIMER, dated 7th. Oct. 1942 (documents put in later); in so far as it contains:

"These last few days, just when you, Reichsfuehrer, were in Berlin, I rounded up 15,000 Jews in Holland and had them taken to WESTERBORK camp. Through this it happened that for a whole week 5,000 Jews had to sleep on the ground. The Reich Commissioner's so called Jewish Commissioner was morbidly sympathetic about this, which in its turn gave me the possibility of forging ahead, using the occasion finally to manage that the Reich Commissioner's party officer, who also in addition acts as Jewish Commissioner, shall get the sack. The Reich Commissioner has promised me today that the whole liquidation of the Jewish affair from now on shall be exclusively the business of the police, through which promise we have advanced a bit in this domain also. So as you see, Reichsfuehrer, I am very pleased with the way things are developing."

Photostat of a letter from the accused to the Befehlshaber der Sicherheitspolizei and the Befehlshaber der Ordnungspolizei, dated 9th. Jan. 1943 (E 15) in which he writes that for various reasons, and "also because thousands of Jews are hiding in country districts, either without an identity card or with a false one, I direct that at once and until further notice one company each of the Amsterdam and Hilburg police Battalions systematically search country towns and villages, this in conjunction with the German Sicherheitspolizei who for their part must draw on politically trustworthy Dutch officials of the Criminal police".

I can marry among themselves in future. We have further proposed that a law be made whereby the Aryan member of a mixed marriage can obtain a divorce by appealing to the Jewish blood of the partner.

3 Photostats of newspaper reports (E 19, 20 and 21) containing decrees issued by the accused, respectively 14th. Febr. 1943, 23rd March 1943 and 15th April 1943 whereby the Jews are forbidden to live: "By the 1st decree, in HANDEL and district, by the 2nd decree in the provinces of FRISING, OBER, GRONING, GELDERLAND, LIMBURG, N. BRABANT, ZEELAND and by the 3rd decree, in the remaining three provinces, UTRECHT, FLUID-HOLLAND and NOORD-HOLLAND."

ACCUSED:

that he acknowledges having issued the above decrees which were read out at the sitting; he did this in virtue of the powers conferred upon him as General Commissioner for Public Safety by the Decrees 133/41, arts. 33 and 45, 1/41, arts. 52, 53, 54, and 55/41, arts. 1, 2, and 3; that, however, the initiative was not taken by him, but by MEIJER from whose instructions were given to the Sicherheitspolizei which then put the decrees in front of him; that he acknowledges however bearing the responsibility for them; that as a result of the said order given, him several razzias were carried out during which many Jews were arrested; that he knew that these Jews were transported to Eastern Europe.

Photostat of a signed document dated 25th June 1943 (E 25):

"S.S. Obergruppenfuhrer RAUWER informed me yesterday that he did not wish WUCHER to be a permanent Jewish Camp but rather that all Jews shall as soon as possible be taken off together to Eastern Europe".

Copy of a letter from the accused dated 2nd. March 1944. (E 29) containing among other things: "Urged by us a sitting was held on 21.2.44, at the Reich Commissioner's in order to bring forward the question of the mixed marriages problem. At our request the Reichsicherheitshauptamt sent us a teleprinter message in which it is demanded that Jews of mixed marriages be taken off to work under enclosed conditions for the Arbeitseinsatz. I report as follows regarding this sitting at the Reich Commissioner's;

The Jewish problem in Holland, properly speaking, can be considered as solved. Within the next 10 days the last full Jews will be taken off from WESTERBORN Camp to the East. 994000 full Jews are leading an illegal existence. We are managing to pick up 6 to 700 of these Jews monthly and are pushing them off to the East (need money). I agree with the Reich Commissioner that the childless Jews of mixed marriages, men and women, shall be sent off to the East regardless if possible. The number of these is 2,453. The Reich Commissioner had already given permission a year ago to send these childless Jews of mixed marriages away. When some hundreds had been sent off the Reichsicherheitshauptamt unfortunately raised objections and stated that Jews of childless mixed marriages were no longer to be sent off for reasons of foreign policy. At the same time I have proposed to the Reich Commissioner that he should at all events finally bring in the Blood Protection laws with regard to Jewry. The Reich Commissioner had at that time refused to do this with a view to the Malayan question (Japan). It must however be prevented that persons of Jewish blood as the partner. The Reich Commissioner has agreed to our demands in principle but before definitely deciding on this wishes to approach you, Reichsfuhrer and also Reichsleiter BORNHART as a matter of principle."

A document bearing the title "Report of the speech by S.S. Obergruppenfuhrer RAUWER" (E 31) containing among other things:

"Now a short word about the Jewish question in Holland. Everyone knows that we had about 140,000 full Jews here in Holland, including foreign ones, some of which latter we cannot get hold of for international reasons. It is a question of sending Jewry in its entirety to the East. I can tell you here - and please do not repeat it outside - that we here have up to now sent 50,000 Jews off to the East and that there are still 12,000 Jews in the camp.

That comes to about 67,000 Jews then who have already been eliminated from the Netherlands national life. From April 1st. we hope to attain a greater speed in the evacuation of the Jews, in the sense that we shall then send off a train twice a week in place of once so that we can then deport 12,000 per month. We hope within a measurable space of time to have no more Jews freely walking, the streets in the Netherlands, with

Thundred
years' time
would per-
haps have
been

with the exception of mixed marriages where there are children, these we still have to deal with. On April 1st. we want to publish a general prohibition in the four northern provinces, OVERISSEL, DRENTH, FRIESLAND and GRONINGEN, that any Jew may remain there longer. Then will come the southern provinces, LIMBURG, BRABANT and ZEELAND. On May 1st. we wish to include UTRECHT in this and, finally, NORTH HOLLAND, SOUTH HOLLAND and the town of AMSTERDAM. I shall be very glad when the Jewish question is cleared up for ; and the Sicherheitsdienst will bear its out in this , a Jew is always and everywhere to be found at the back of all espionage and terrorist actions, either organizing the attacks with explosives or doing the financing, or else as the one commissioning somebody to kill a National Socialist. We shall never have quiet unless the Jews are removed. I am endeavouring to get the Jews away as quickly as possible. This is not a nice job, it is dirty work, but it is a measure which seen historically, will have great significance. It cannot be imagined what it means to root out from the body of a nation 120.000 Jews who in another/a million strong and there is no personal compassion in all these measures taken by the Germanic S.S. for the Germanic peoples are behind us. The good we are doing the body of the nation takes place inexorably and there is no tenderness and weakness ~~there~~. The one who does not understand this, or who is full of pity or silly talk about humanisms and ideals, is not fit to lead in these times. An S.S.-man especially must go through with it unflinchingly and pitilessly. We only wish to be cured of this affliction and the Jewish question shall be definitely and absolutely settled. In his arguments in the last few months, indeed in these last years, the Fuehrer has repeatedly brought forward the problem and given the American Jews and the Freemasons to understand that if American plutocracy let loose a war and wanted to fall upon Europe this would mean the end of European Jewry. And this is what is going to happen. Not one more Jew shall remain in Europe. Hence the proposed measure of 1st. April to clear the first part of the Netherlands. If a policeman will not collaborate then that policeman must disappear. I have no use for any police in Holland who refuse to obey. This is a regrettable sign which can nearly always be traced back to the attitude of the Church. The priests ought to stick to their church and leave the authorities in peace, and not issue pastoral letters. Anyone who does this must have his fingers rapped. They leave the fighting to be done by those who follow up their appeals. I am determined to root out those police who fail to do their duty, even should they form 60% of the police force. For that reason, I am glad that the number of policemen who have obeyed the priests' call is practically negligible. I cannot understand why those people do not shove the responsibility off on to us if they say they cannot bear this in the sight of God. I will gladly atone with my soul in Heaven for the crimes, I have committed here against the Jews. Anyone who has recognized what Jewry means as a race and nation cannot act otherwise than/ as we are doing";

Witness HENDRIK WILLEM van EMMEN:

that in March 1943, on the occasion of the re-installation of FELDMEIER as leader of the Germanic S.S. after his return from the East front, the accused made a speech in front of the Dutch and German S.S. leaders of which a shorthand report was taken down that he received next day as chief editor of the weekly paper "Stoorn"; that this report gave a faithful reproduction of the speech; that this report contained the above mentioned passage;

Witness WILHELM JOHANNES HUBERTUS WIGGEMAN:

that in The Hague in May 1943 he, as a shorthand writer working for the A.N.P. made an accurate report of the speech made by the accused at the re-installation of FELDMEIER as leader of the Germanic S.S.; that this report contained the above-mentioned passage;

Accused.

that he acknowledges the correctness of the photostats of newspaper reports and of his correspondence with HIMMLER which he has heard read out at the sitting, with the exception of the letter of 10th September 1942 in which it was said that he had had two concentration camps built; that this fact is not correct; that he does however acknowledge ^{the} signature appearing in this photostat;

Statement made out by T.J. van DIEN, police inspector and C. van den BERG, police detective, both of The Hague, (to be further called T), containing (page 43) that SAULION BROUWERS, head of the "Tracing of Jews" section of the Netherlands Red Cross S.S. declared:

-that-

that from data in his possession he can state that during the German occupation about 110,000 persons of Jewish descent were taken away from the Netherlands of whom about 100,000 possessed Dutch nationality; that not as many as 1,000 out of these 110,000 persons have up to now returned since the war;

Judgment already mentioned, page 17 and following: "The German occupation authorities did succeed in forcing many of the inhabitants of the occupied territories to work for the German war effort, and in deporting at least 5,000,000 persons to Germany to serve German industry and agriculture". "During the first two years of the German occupation of France, Belgium, Holland and Norway, however, an attempt was made to obtain the necessary workers on a voluntary basis. How unsuccessful this was may be seen from the report of the meeting of the Central Planning Board on the 1st. March 1944. The representative of the defendant Speer, one Kochrl, speaking of the situation in France, said: "During all this time a great number of Frenchmen were recruited and voluntarily went to Germany;"

He was interrupted by the defendant Sauckel:

"Not only voluntary, some were recruited forcibly"

To which Kochrl replied:

"The calling up started after the recruitment no longer yielded enough results"

To which the defendant Sauckel replied:

"out of the five million workers who arrived in Germany not even 200,000 came voluntarily,"

and Kochrl rejoined:

"Let us forget for the moment whether or not some slight pressure was used. Formally, at least, they were volunteers"; Committees were set up to encourage recruiting, and a vigorous propaganda campaign was begun to induce workers to volunteer for service in Germany. The propaganda campaign included, for example, the promise that a prisoner of war would be returned for every labourer who volunteered to go to Germany. In some cases it was supplemented by withdrawing the ration cards of labourers who refused to go to Germany or by discharging them from their jobs and denying them unemployment benefit or an opportunity to work elsewhere. In some cases workers and their families were threatened with reprisals by the police if they refused to go to Germany. It was on the 21st March 1942, that the defendant Sauckel was appointed Plenipotentiary-General for the Utilisation of Labour, with authority over all available manpower, including that of workers recruited abroad, and of prisoners of war." The defendant Sauckel was directly under the defendant Goering as Commissioner of the Four Year Plan, and a Goering decree of the 27th March 1942 transferred all his authority over manpower to Sauckel. Sauckel's instructions, too, were that foreign labour should be recruited on a voluntary basis, but also provided that "where, however, in the occupied territories the appeal for volunteers does not suffice, obligatory service and drafting must under all circumstances be resorted to." Rules regarding labour service in Germany were published in all the occupied territories. The number of labourers to be supplied was fixed by Sauckel, and the local authorities were instructed to meet these requirements by conscription if necessary. That conscription was the rule rather than the exception is shown by the statement of Sauckel already quoted, on the 1st. March 1944.

The defendant Sauckel frequently asserted that the workers belonging to foreign nations were treated humanely, and that the conditions in which they lived were good. But whatever the intention of Sauckel may have been and however much he may have desired that foreign labourers should be treated humanely, the evidence before the Tribunal establishes in many cases by drastic and violent methods. The "mistakes and blunders" were on a very great scale. Man-hunts took place in the streets, at motion picture houses, even at churches and at night in private houses. Houses were sometimes burnt down, and the families taken as hostages, practices which were described by the defendant Rosenberg as having their origin "in the blackest periods of the slave trade".

The fact that the conscription of labour was accomplished

"The treatment of the labourers was governed by Sauckel's instructions of the 20th. April 1942, to the effect that: "All the men must be fed, sheltered and treated in such a way as to exploit them to the highest possible extent, at the lowest conceivable degree of expenditure."

The evidence showed that workers destined for the Reich were sent under guard to Germany, often packed in trains without adequate heat, food, clothing or sanitary facilities. The evidence further showed that the treatment of the labourers in Germany in many cases was brutal and degrading. The evidence relating to the Krupp Works at Essen showed that punishments of the most cruel kind were inflicted on the workers. Theoretically at least the workers were paid, housed and fed by the DAF, and even permitted to transfer their savings and to send mail and parcels back to their native country; but restrictive regulations took a proportion of the pay; the camps in which they were housed were insanitary, and the food was very often less than the minimum necessary to give the workers strength to do their jobs.

In the case of Poles employed on farms in Germany, the employers were given authority to inflict corporal punishment and were ordered, if possible, to house them in stables, not in their own homes. They were subject to constant supervision by the Gestapo and the SS, and if they attempted to leave their jobs they were sent to correction camps or concentration camps. The concentration camps were also used to increase ~~in~~ the supply of labour.

Concentration camp commanders were ordered to work their prisoners to the limits of their physical power.";

Statement (proces-verbal) made out by W.M.v.d. HARST, special police officer, (E 47) containing that in the archives of the Reich Commissariat Staff he came across a document signed EFTER in which the following appears:

"An agreement has been come to with the Hoheren S.S. und Polizeiführer, S.S. Obergruppenführer RAUHER, that check-ups and man-hunts (razzias) shall be carried out for those persons belonging to the 1924 draft who are now living illegally in the Netherlands. Persons belonging to this draft who are not in the possession of the brown identity paper will be sent to GISEN camp. The same regulation applies for the drafts still to be called up."

Photostat of a letter from the accused to the Befehlshaber der Sicherheits und Ordnungspolizei dated 15.7.43 (E 48) containing:

"I am appending for your information a copy of the General Commissioner's Circular Letter no. 34 concerning the employment prohibition. Man-hunts can accordingly be carried out for all men of the 1924 draft and from 1st. August for all those also belonging to the 1923 draft.

At the same time with a view to upholding state authority with regard to the "Arbeitseinsatz" (mobilisation of labour) decrees etc., I order that each police battalion carry out one man-hunt per week; the entire battalion ^{being} employed and that further the B.d.O. must think out in what way a check-up can also be held in trains as part of this man-hunt.

To be looked for in the first instance during the man-hunts:

1. Those in the two drafts (1923 from 1-3) who refuse to work;
2. hidden Jews;
3. Students whose personal identity papers are marked "student" but who however are not in the possession of the identity card prescribed by the University;
4. police officials who have gone "underground" and who can generally be recognised by their appearance. These names must be supplied regularly by the B.d.O. to the battalion commanders;
5. wireless sets which have not been reported are to be hunted in for confiscation and locking-up.

The names of the owners are to be immediately forwarded to the German Obergericht via the Sicherheitspolizei";

Accused:

that he acknowledges having ordered these man-hunts; that they did also take place;

A circular Letter dated 3rd June 1944. (E 56) from the Hauptabteilung Soziale Verwaltung;

-Social-

(Social Administration Head Office) to which as an enclosure a copy of a decree dated 14th. April 1944 is attached signed with accused's name and containing among other things:

- 1) In order that the sending of Netherlands labour power to the Reich for the Arbeitseinsatz may also be energetically promoted by police intervention an Arbeitseinsatzpolizei (police) is being formed.
- 2) The Arbeitseinsatzpolizei has to find out the breaker of a labour contract, the person refusing to do his labour service, the man who overstays his leave, and also those Netherlands workers who do not answer their call-up for labour service, and to take them to the Labour Exchanges concerned.
- 3) For this purpose the members of this Arbeitseinsatzpolizei may undertake searches of the actual or supposed places of residence of those refusing to work if there are good grounds for supposing that the person being looked for is in the house concerned.
- 4) The Arbeitseinsatzpolizei comes under the Generalkommissar fuer das Sicherheitswesen und Hoehere S.S.-und Polizeifuehrer beim Reichskommissar fuer die besetzten niederlandischen Gebiete (the General Commissioner for Public Safety (Superior S.S. and Police Chief) on the staff of the Reich Commissioner for the occupied Netherlands territories).

Accused:

that he acknowledges having taken this decision.

Letter from the accused to the head of the Reichssicherheitshauptamt, Dr. KALTENBRUNNER dated 24th. June 1944 (E 57) containing among other things: "Meanwhile the Arbeitskontrolldienst (control of labour service: Arbeitseinsatzpolizei) is now 400 men strong. The fellows have received a very good training, are absolutely all right ideologically and have become the terror of the man "underground". That naturally there will be a great fight against these Arbeitseinsatz police is clear. Without draconic measures and without Arbeitseinsatz police nothing can naturally be done. No Netherlander nowadays answers the Labour Exchanges' call for volunteers. They must all be fetched. The whole situation on the West-front calls for this;"

Accused:

that he acknowledges the correctness of this letter;

Letter from the accused to HEIDLER, dated 9th. August 1944 (E 34)
"We had an important sitting at the Reich Commissioner's yesterday regarding the total war effort. It was at last achieved that the 18, 19, 20, 21, and 22 year old Netherlanders must in principle and without exception be seized for the purposes of the Arbeitseinsatz so as to be handed over to the Reich. It is only the seizure of the whole of the younger drafts which will enable the Arbeitseinsatz police, formed by me in the meantime, to carry the comb-out through successfully";

Accused:

that he acknowledges this letter too to be correct; that his intervention in the Arbeitseinsatz question was ordered by Berlin; that his contact with the Arbeitseinsatz police after he had formed this was only disciplinary as the whole of the Arbeitseinsatz belonged to the competency of Commissioner-General SCHUBERT; that the deportation of young Netherlanders took place on military grounds, a landing being feared;

Two statements by Dr. L. DE JONG, head of the Rijksinstituut voor Oorlogsdocumentatie (State Institute for War Documentation) (E 83 and E 90) reading as follows:

"The undersigned herewith declares that data in the possession of the Rijksinstituut voor Oorlogsdocumentatie show that during the German occupation Netherlanders were repeatedly seized against their will by the enemy and carried off. In 1943 and 1944 this occurred especially to those who were arrested during a check-up by the Labour Control police which was under German orders, as well as during man-hunts which were jointly carried out with the so-called Gruene Polizei.

The total number seized and carried away in this manner is not known with certainty

-It is-

It is established though that many of these seized were first taken to the Polizeiliches Durchgangslager (police transit camp) in Amerfoort.

In July 1943 weekly transports consisting of 100 to 200 persons left that camp for Germany, which transports were mainly made up of those seized for the Arbeitseinsatz.

Between 7th. January and 1st September 1943 transports alone left the Polizeiliches Durchgangslager Amerfoort for Germany, and these consisted nearly entirely of Netherlands workers seized in check-ups and gas-hunts. In all 9894 Netherlands were taken to Germany with these transports.

The German police organisations exercised a strict control for the benefit of the Arbeitseinsatz. Innumerable individual and mass arrests took place in order to get hold of men who tried to escape the Arbeitseinsatz.

At least 300.000 Netherlands were taken off to Germany for the Arbeitseinsatz during the German occupation, while the number off those carried off in 1944-1945 to work for the Arbeitseinsatz at or behind the German front and in the Netherlands must be estimated at a minimum of 100.000."

"The undersigned hereby declares that from material in the Rijksinstituut voor Oorlogsdocumentatie it appears according to estimate that out of the total number of workers taken off to Germany from the Netherlands within the framework of the Arbeitseinsatz about 34.000 have not returned."

Copy of a letter dated 14th August 1943 (C 23) signed GOERING, stating among other things:

"In consequence of the enemy's terror attacks on the civil population in Reich territory the Fuehrer has made the following decision.

In future enemy public and private property in the occupied territories is to be ruthlessly ^{drawn} upon for the replacement of property such as house furnishings, furniture, domestic utensils, linen, clothing, etc., destroyed by enemy terror attacks. Giving effect to this decision I order that:

1. the Reich/ Commissioner for the Occupied Netherlands Territories, The Militaerbefehlshaber (Military commander in occupied territory) of Belgium and Northern France, and the Militaerbefehlshaber of France, are immediately to seize and confiscate house furnishings, furniture, domestic utensils, clothing of all sorts etc. to the greatest possible extent, leaving behind only what is strictly necessary;
2. The seizure and confiscation are to take place as rapidly as possible and in such a way that it is possible at any time to collect the articles and take them off to the Reich territory concerned."

Copy of a letter (C22) of the same date from GOERING to the Reich/ Commissioner, SEYSS INQUART,

containing among other things:

"As stated in my decree of 14.8.1943 the Fuehrer has decided that in future enemy public and private property is to be ruthlessly drawn on for the replacement of property such as for instance house furnishing, furniture, domestic utensils, clothes of all sorts, etc., destroyed by enemy terror attacks.

I ask you to have this order carried out ruthlessly, especially in the occupied Netherlands Territories. It is unendurable that thousands of German compatriots are imposing the greatest restrictions on themselves and making heavy sacrifices in order to provide those people who, through enemy terror attacks, have lost house furnishings, furniture, domestic articles, upper and underclothing, etc., with at least those household objects most necessary for life, while the population of the occupied enemy territory is not made to feel in any way the effect of the enemy terror attacks on Reich-territory. The attitude of the Dutch population in connection with this is especially striking, in a way unknown in any other occupied territory, it showing its malicious joy at the results of the terror attacks on Reich territory in a spiteful and un concealed fashion;"

Copy of a letter to GOERING signed SEYSS INQUART dated 9th Sept. 1943 (C 21) containing an answer to the above-mentioned letters of 14th August 1943, in which answer some suggestions were made and it was further remarked:

"I would like in future to set in a similar way (i.e. an extensive clearing out of the whole house) against all those persons who have insulted the occupying power or taken up a hostile attitude. Here too I would like to proceed ruthlessly with a seizure of the contents of the house."

-Photostat-

Photostat of a newspaper report of 15th Oct. 1943 concerning the handing in of wireless sets (B 3), in which among other things the accused states:

"I draw particular attention to the fact that in each case of non-delivery of a set I shall as a first punitive measure order the calling-in of the entire household contents, including the furniture, for the benefit of those suffering bomb damage";

Statement (procès-verbal) made out by C. MEERTINGA, police detective belonging to DEN HELDER municipality, also special constable (C 7 a), containing the following statement by JAN WESSEL, assistant under-secretary in Den Helder, municipal secretariat:

that as deputy burgomaster of Den Helder municipality he "went underground" on 21st Jan 1944 because he refused to obey some German orders to requisition men for the laying of a cable for the German Wehrmacht; that immediately after this his neighbours took some of the contents out of his house and placed these in safety; that as he learnt, the remainder of his household effects, clothes, table furnishings and draperies, were taken away by a carrier in the presence of German soldiers; that except for some rubbish he has never seen any of it again;

/later

Statement (procès-verbal) made out by H. de LANGE, sergeant 1st. class also special constable, containing the statement by K.H. BRANDT:

that as burgomaster of MOORDRECHT he went "underground" on 1st. Oct. 1944 after having received a telephonic order from the Ortskommandant in GOUDA to empty the factories of the N.V. Kon. Vereenigde Tapijten Fabrieken, which order he did not wish to carry out; that the following day the Germans took away that part of his furniture etc. which he had not been able to place in safety;

Witness D.J. VAN DIEN and C. VAN DEN BERG, each individually but to the same effect: that it is a matter of general knowledge that during the German occupation the German police took away the contents of the houses of burgomasters and other authorities, policemen and railway personnel who had gone "underground", as well as that of persons who had not handed in their wireless sets; that these things were practically unattainable at that time so that taking them away meant a very serious loss for the persons concerned;

Statement (procès-verbal) I in so far as it contains the statement by the accused: "On the grounds of the order given by SEISS INQUART to seize the household contents of all persons who in one way or another had resisted the German occupying power, and also because, I understood SEISS INQUART's difficult situation and was afraid that GOERING would revert to his original order of 14th Aug. 1943, I did all I could to enable the Sicherheitspolizei to achieve the minimum which SEISS INQUART had promised GOERING. As a result of this the Sicherheitspolizei during the following months continually seized furniture and other household articles in cases of non-delivery of wireless sets and the going "underground" of policemen, burgomasters and other functionaries."

Accused at the sitting:

that it is possible he received an order from SEISS INQUART to have the household contents of burgomasters and other officials who went "underground" seized, that he passed this order on to the Sicherheitspolizei; that such orders did in fact always go through him;

Decree concerning the confiscation of wireless sets of 13th. May 1943

signed: the Superior S.S. and Police Chief RAUWER, and entered in the "Verordeningenblad" (Verordnungsblatt fuer die besetzten niederlaendischen Gebiete, the legal gazette for the occupied Netherland territories), part 16, containing among other things:

"In virtue of article 16 of the Public Order Decree 1943, with a view to the maintenance of public order and safety and with reference to the Polizeistandrecht (police martial law), I hereby decree:

-Article 1-

Article 1.

(1) All wireless sets, accessories and parts in the occupied Netherlands territories are declared confiscated as from this moment.

Article 2.

Unless otherwise determined by the Supreme S.B. and Police Chief the confiscated wireless sets, accessories and parts are to be handed in by the owner to the competent local police authority who will call in the cooperation of the R.M.A. (Rijks and telegraph) for this purpose. Place and time of handing in will be made known by the police authority within ten days of the publication of this decree by means of a notification in the daily press or in the way generally used in the locality.

Article 3.

(1) In agreement with the provisions (Art. 2, sections 2 and 4) suitable compensation will be paid in due course for wireless sets, accessories and parts handed in in good working order.

For further provisions, especially with regard to the compensating of dealers, will be promulgated by means of an enforcement decree.

Photostat of a letter from the accused to UNITED dated 25th July 1942

(B 9):

Up to now 755,000 radios have been handed in. Large quantities have still to come in, the Amsterdam, Hague and Rotterdam municipalities, so that it can be confidently reckoned that 800,000 radios will have been handed in by 15th August.

In addition to this there are another 100,000 sets which have been released and which may remain with the owners, so that 800,000 apparatus will have been seized. There are still 200,000 sets winning and in order to round these up I have ordered a raffle (raai) to be held once a week by each police battalion who will cordon off country places and rings of houses in towns and search these for.

- a) radios which have not been removed;
- b) persons of the 1924-35 drafts already included in the Arbeitsdienst quota who refuse to do their labour service;
- c) students who did not report in due course;
- d) Jews;
- e) persons for whom a warrant of arrest has been issued.

Such raids have already taken place and about 15% of the radios sets in the places concerned brought in. I have arranged with the Admiral General of the German Supreme Court that penal proceedings shall be taken at once against the owners of these sets, to take the form of a fine, seized according to their financial position as well as a conditional loss of liberty (imprisonment).

"Reichsminister Dr. GOEBBELS has written the R.M. (Reichskommissar) a letter and asked him to reserve for his hand these sets over to the Reich as he wishes to distribute them among all those needing sets. This counts especially for the Wehrmacht which has the most claims for the use of such. He gives me of course that the R.M. may wish to distribute some direct from Holland to those groups in which he has the greatest interest, but even however that the number of such sets shall be notified him so that they can be put down against those needing them concerned in the Reich's quota. Reichsminister Dr. GOEBBELS also notes most particularly the claims of suffering from hunger."

S.B. Obergruppenführer Dr. Goebbels has asked for sets for the Joint Warrent) S.B. and Police, this through his "Angriffsbewegung" (Forces' mobile) board. The Reichskommissar has promised me to put a suitable number of the sets here at your disposal for these purposes."

Account:

That is what the correctness of those decrees;

Witnesses VAN DIEN and VAN DEN BERG each individually but to the same effect:

that it is a matter of general knowledge that the public handed in their wireless sets on a large scale out of fear of the very severe measures which were several times threatened by the accused; that several cases are known where the entire contents of the house were seized for non-delivery of radios;

Witness CORNELIS van GELDEREN:

that some days after the attack on the Dutch Lt. General SEIFFART, commander of the VRIJWILLIGERS LEGERION NEDERLAND (Netherlands Volunteers Legion) in February 1943, there was a conference in SEISS INQUART's private office in The Hague at which in addition to SEISS INQUART, witness, the accused and various other people were present; that accused then twice gave a summary of the measures to be taken in connection with this attack, including the shooting of 50 hostages;

Photostat of a telegram from the accused to HUIJER dated 6th. Febr. 1943 (E 36), containing among other things:

"The following measures are being carried out:

1.....

- 2) since 8 a.m. a large scale action has been going on by my orders in the Amsterdam, Utrecht, Delft and Wageningen Universities with the object of arresting as many students as possible belonging to the reactionary camp and sending them off to VUCHT camp;
- 3) early on Monday at least 5.000 sons of the monied classes, especially those not working in any way, will be suddenly arrested, all police forces being used, in the three provinces named above where the main resistance repeatedly appears, and then taken to VUCHT camp. The N.S.B. burgomaster of ROTTERDAM, Ing. HUIJER, is immediately calling together the joint N.S.B. burgomasters of the three provinces so that they can make out lists of these plutocrats' sons".

"I have asked for the shooting of 50 hostages, this time from among the very "orange" ones.

Hauptdienstleiter SCHMIDT and VAN GELDEREN were against it. GELDEREN asked for it not to be done as the shooting of hostages on account of N.S.B. people always reacted politically against the N.S.B. Against this I maintained that Lt. General SEIFFART in the first place was not an N.S.B. man in any way, had placed himself as former head of the General Staff of the Netherlands army at the disposition of the Reich for recruiting purposes, and his name appeared publicly thousands of times at recruiting drives and send-offs. Lt. General SEIFFART being attacked means that the recruiting of volunteers in Holland is being fought and overpowered, so that I consider it necessary that in addition to other measures the shooting of hostages should nevertheless be proceeded with. It is true that the seizure of 5.000 sons of rich families, if these are really tackled severely and sent off to Germany or to the East, would have a much more repressive effect than the shooting of hostages, but all the same I believe that the shooting of hostages must be adhered to".

Photostat of a telegram from HUIJER to the accused (E37) dated 6.2.1943:

"Have received your telegram of 3.2.1943. Agree to points 1, 2 and 3. You cannot hardly proceed sharply or vigorously enough."

/at the same time

"I would not shoot the hostages if we can only arrest the 5.000."

-Accused-

Accused:

that he admits the correctness of these documents;

Photostat of a newspaper report of 5th. May 1943 (EJW) in which it is announced that the accused had issued a decree containing among other things:

"I. All male persons who have attended a Netherlands University in the study year 1942/1943 and have not yet completed their studies according to the curriculum must, with the exception of those students mentioned under III, report on 6th May 1943 between 4 and 6 p.m. to the competent commandants of the S.S. und Polizeisicherungsgebiete (S.S. and police security zones) of the places where they reside for the purpose of recruitment into the Arbeitseinsatz.

III. The provisions under I and II are not applicable to those students who before the coming into force of this decree have signed a declaration in accordance with par 2 of Order No. 23/1943 for the securing of order in universities and are in the possession of a confirmation by the university that this declaration has been made;

IV. He who acts contrary to the provisions of this decree or tries to evade them, especially he who does not fulfil the obligation to report or who intentionally or through negligence makes false statements, shall be punished with imprisonment and a fine to an unlimited degree or with one of these penalties unless a severer punishment has been threatened in another provision.

(2) The same punishment as that of the author himself applies to inciters, accomplices and helpers.

(3) Measures by the Sicherheitspolizei, especially the taking to a penal labour camp, remain in force.

(4) Those exercising the authority of parents or guardians over the persons named under (1) are jointly responsible for the appearance of the same. Measures by the Sicherheitspolizei remain in force against them even when they are not punishable according to that laid down in (1) and (2);

Accused:

that he admits that razzias were held when many students were arrested; that these students were put at the disposal of General-Commissioner SCHMIDT who had them taken off to Germany for the Arbeitseinsatz;

A written declaration by Dr. L. de JONG head of the Rijksinstituut voor Oorlogsdocumentatie (E 57) containing:

"According to data possessed by the Rijksinstituut voor Oorlogsdocumentatie there were 14,571 students on the rolls of Netherlands Universities on 5th. May 1943. 2274 of them signed the so-called declaration of loyalty.

On 6th. Febr. 1943 about 1800 students were arrested in the razzias after the attack on General SEITZARDT. About 3800 (26% of the total number of students, 31% of the students who did not sign) reported as a result of RAUWER's proclamation on 5th May 1943. A great number of students were still caught after that in razzias and so on:

The students who had not signed and who fell into German hands were sent to Germany for the Arbeitseinsatz. Several of them died from the treatment they received in so called Arbeitserziehungslager (Labour training camps). The total number of these is not known.

On 15th March 1944 however, a letter written by the Vice-Chancellors of the Netherlands Universities was sent to the Secretary-General of the Departement voor Opvoeding, Wetenschap en Cultuur bescherming (Department of Education Science and the Protection of Culture) in which a total of 25 deaths of students as a result of bad treatment in Germany was pointed out";

-photostat-

Photostat of a letter from the accused to HEIDER of 10th. August 1943 (D 1), containing among other things:

"I have just decreed that the relations and parents of Marechaussee and other police officers who disappear, going "underground" and taking their pistols and ammunition with them, are to be arrested. It is only in this way that I can check the process."

Photostat of a circular letter from the General Directorate of Police to various police authorities of 23rd. Sept. 1943 (D 1) containing among other things:

"I wish hereby to inform you that the Hoehere S.S. und Polizeifuehrer, S.S. Oberguppenfuehrer und General der Polizei RAUER, has decided the following in principle:

1. Whenever Netherlands police officers, whether belonging to the State or Municipal police, leave the service of their own accord, either dressed in uniform and having firearms with them or without firearms, the Sicherheitspolizei must immediately take the nearest relatives of the police officer concerned into custody. These will be taken to a concentration camp."

*Out of uniform
and not in the
possession of*

Statement (D 5) of G. DEJ, assistant detachment commandant of State police in COEVORDEN, in which he says that he went "underground" on the night of 4th - 5th July 1943 in connection with a threatening danger of arrest by the S.D. on account of underground resistance;

that his wife, HEESKE DEJSTRA, and his three children, aged respectively 13, 15 and 17 were arrested by German Police officers on 1st. Aug. 1943 and taken to WUHL concentration camp where they were kept prisoner until 18th. Dec. 1943;

Statement I in so far as it contains the statement (p. 4) of:

ROELOFJE HILDE: that her husband S.S. OVERHEIJ, sergeant-major in the State police, went "underground" on 1st. May 1943; that on 3th Aug. 1943 she was arrested by the German police and taken to the concentration camp in WUHL with her two eldest children, she and her children being kept prisoner there till 18th Dec. 1943;

ROOSE van der HEEDE: that he, his mother and his two sisters were arrested on 1st. Aug. 1943 in connection with the fact that his brother, a Marechaussee, had gone "underground"; that his sisters were released on 24th Dec. 1943 and he and his mother, on 10th Jan. 1944;

Copy of a letter from the District Police president in URECHIN of 24th. Dec. 1943 (D 5) containing:

"The Director-General has received a letter from S.S. Oberguppenfuehrer und General der Polizei RAUER, the translation of which is as follows:

"At that time I had decided that in cases where Netherlands police officers desert the police service in uniform and with a pistol the members of the family must be arrested, as I can in no way tolerate such a desertion of duty. Meanwhile about 150 members of the families of these police officers who have gone off have been taken to a camp in the Netherlands as hostages. I visited this camp yesterday and with a view to the approaching Christmas festival have released these persons".

Accused:

that he had about 150 members of the families of some 40-50 policemen who had gone underground taken to WUHL where they remained in the concentration camp till Christmas 1943; that he did this because these policemen had gone underground with their weapons and he supposed they would play a part in the resistance movement and he, accused, wanted to counter that;

Statement I, in so far as it contains the statement by HERAUBUS van S. JONGELAND, alderman of ALLMAR municipality (page 1 and following):

-that-

that as acting-burgomaster of ALLMAR municipality he received news that a fine of f. 50,000.- had been imposed on the municipality and that the inhabitants would have to do guard duty for six weeks because one of the German telephone cables had been destroyed; that the fine was paid and the guard duty done because Sicherheitspolizei measures were threatened otherwise; that in his opinion it was not certain that it was a case of sabotage here for the cable was stretched from the tree and could also be broken by the movement caused the trees by the wind;

Copy of a letter from the Ausgestellungsleiter HEINRICH VAN ALPHEN to the burgomaster of ALLMAR of 3rd. March 1942 (A 2) containing among other things:

"During the night of 27th-28th Febr. 1942 a German Wehrmacht cable in your municipality was cut through by persons unknown. On account of this act of sabotage the General Commissioner for Public Safety has as a measure of repression ordered that the cable in question shall at once be guarded, this to last provisionally for six weeks, and has further imposed a fine of f. 50,000.-";

Statement I in so far as it contains the statement by HEINRICH VAN ALPHEN, burgomaster of ZANDVOORT (page 3):
that he was notified in Jan. 1942 that a fine of f. 20,000.- and four weeks guard duty was imposed on ZANDVOORT municipality on account of German cables having been cut; that he had never heard anything about it up to then and so does not know whether cables had been cut through; that both orders were complied with;

A document (A 5) with the following contents:

"The Hague, 9th. Jan. 1942.

INSTRUCTIONS:

To the ZANDVOORT Municipality in ZANDVOORT:
for the attention of the burgomaster.

In virtue of articles 1 section 2, and 5 section 2, of the Decree of the Reich Commissioner for the Occupied Netherlands Territories of 29.5.1940, a fine of f. 20,000 (twenty thousand) payable by the 31st. Jan. 1942 to the account of the Head Pay Office of the Reich Commissioner with the Rotterdam Bank association, The Hague, has been imposed on the municipality of ZANDVOORT.

Reason: During the night of 5th. - 6th Jan. 1942 Wehrmacht Cables in the ZANDVOORT municipality were the object of an act of Sabotage. As almost a year ago the same cables were deliberately interfered with and, further, the inhabitants of ZANDVOORT municipality in connection with an act of sabotage in the ZEEWEG on 4th - 5th Dec. 1941 were warned under threat of severe measures against carrying out further sabotage, a fine of f. 20,000 is imposed in addition to the order that the cables be guarded for a space of 4 weeks.

For the R.d.A.
S/ (illegible)
S.S. Sturmbannführer
und Kriminalrat

Acting for
the Befehlshaber der
Sicherheitspolizei und des S.D.
a/ D. HARSNER
S.S. Standartenführer und Oberst
der Polizei."

Witnesses van DIJK and van den BERG, each individually but to the same effect:
that when investigating this matter he found that in addition to ALLMAR and ZANDVOORT municipalities fines and other measures were also inflicted on several other municipalities for similar acts;

Accused:

that in the form it was he who imposed these collective fines, but in actual fact this decision was taken by the Reich Commissioner in consultation with the Befehlshaber-

haber der Sicherheitspolizei and a financial expert; that the Wehrmacht had several times demanded that strong action should be taken in these cases; that in the ZANDVOORT affair as in several of the others HARSJER had signed for him, accused, following an order or authority; he accused, that in general he knew what took place in these and similar cases;

Statement I so far as it contains the statement of LOUWRENS HOLLAR, head clerk in the MAASSLUIS Municipal Secretariat (page 5); that in May 1941 the accused, as shown by his letter of 19th May 1941, imposed a fine of f. 100.000.-, later reduced to f. 20.000.-, on the MAASSLUIS municipality, the reason being that a flag parade on one or more German warships was disturbed because somebody on shore whistled on his fingers imitating a German whistle signal; that the fine was paid; that a number of inhabitants were also arrested on account of this act;

OTTO HERMANS van der WAL (page 34)

that on 15th May 1941 he and some others were at the outer harbour at MAASSLUIS where a number of German warships were lying at the time and on which ships flag parade was being held; that this parade was disturbed because one of the others whistled on his fingers; that part of the German crew came storming ashore and arrested him and 12 others; that the lad who had whistled on his fingers voluntarily reported himself later; that not-with-standing this he, witness, and the other 12 who were arrested were taken to the Sachsenhausen Concentration Camp on 9th. July 1941 where he remained for 2½ years; that he was then put to do compulsory labour in Berlin; that 4 of those arrested, among them the one who had whistled, died in imprisonment, as well as one other who had also been arrested on account of this happening.

Statement (procès-verbal) made out by NICOLAAS HARRIS, police detective-sergeant also special constable at BEVERWIJK (E 42) containing in brief: that as a reprisal for attempts on the life of the N.S.B. man S.J. de GRAAF and the N.S.B. police lieutenant RIEMAN, the Grune Polizei, strengthened by German Wehrmacht detachments, held a razzia in BEVERWIJK and VEIJEN (N) municipalities on 16th April 1944; that early that morning the said municipalities were entirely cordoned off; that machine-guns were set up at various cross roads and all houses were searched; that 430 young men between the ages of 18 and 25 were seized and taken off to MINSFOORT concentration camp; that 300 of these were later sent to Germany; that he knows of 11 of these 300 youths who have not returned from their imprisonment;

Statement (procès-verbal) made out by IENDERT BOUT, police and also special constable (E 45) in so far as it contains the statement by WILLY LAGES, Kriminai-rat -Sicherheitspolizei; that on 16th April 1944, following an order given him personally by the accused, he and the Grune Polizei carried out a large-scale action in VEIJEN and BEVERWIJK municipalities, people being arrested for the Arbeits-einsatz;

A letter from the accused to the burgo-master of BEVERWIJK municipality of 30th June 1943 (1944?) containing among other things:

"The arrest of 430 young men of the ages of 18 to 25 is a reprisal action with regard to BEVERWIJK municipality, the intention being to prevent further attempts from being started by youthful circles against those of a different political persuasion in a politically agitated municipality that is so strongly persecuted by communistic elements. For that reason it had to reach as wide a circle of persons as possible; a great number of whom I am quite convinced are innocent. The 400 who remain and who are in MINSFOORT camp are going off to Germany and will there be set to do enclosed work under decent conditions for the Arbeits-einsatz.

I have to stick to these measures because it must be made quite clear to all Dutch municipalities that in similar cases I shall answer in the same way, and it is only in that way and by such measures I can frighten off the circle of those who act thus and who, at least outwardly, assert that they are acting in the national interests."

-photostat-

Photostat of a newspaper report (X 52a) containing an article signed with the accused's name and dated Jan. 1943, which contains among other things:

"On Saturday evening, 30th January last, a non-commissioned officer of the German Wehrmacht was shot down from behind in HAREM. The investigation undertaken immediately by the German Sicherheitspolizei has not led to the tracing of the author who, however - the results of the investigation pointing to this - must be looked for in Jewish-communist circles. In agreement with the Wehrmachtsbefehlshaber in the Netherlands, General der Flieger F. CHRISTIANSEN, as a reprisal for one German soldier treacherously murdered the following 10 hostages coming from Jewish-communist circles in HAREM and its surroundings have been shot today. In addition a fairly large number of communist agitators in the same district have been sent to a concentration camp.";

Statement made out by J.P. MEIJERBERG and I. BOON, special constables, HAREM (X 52), in so far as it contains, as a result of the investigation by these officers:

"In the night of 31st. Jan. -1st Feb. 1943, 109 persons were arrested as hostages in HAREM and the neighbouring municipalities of HEESBODE and BLOEDDAAL. Seven persons out of this number were put on one side and on 2nd Feb. 1943 were shot in the dunes in OVERVEEN, BLOEDDAAL municipality, together with three other persons coming from VILSEN municipality, who had been arrested some weeks previously by the Sicherheitsdienst in VILSEN and shut up in AMSTERDAM. The remaining 102 persons were taken as hostages to a concentration camp in VOGEL where one died. The remainder were released before and on 15th. May 1943.";

and in so far as it contains the statement by WILLY LAGEB, Kriminalrat-Sicherheitspolizei (page 3):

"I remember it being reported to me on 30th. Jan. 1943 that a murderous attack had been made that day on a German soldier in HAREM. As leader of the Amsterdam Ausendienststelle I had to pass the news on to the Befehlshaber der Sicherheitspolizei in The Hague which I did. I received an order from this authority to arrest a large number of people in HAREM who were known to be anti-German and ten of them were to be shot.

I ordered JOACHIM WAIJER and ERNST WEIJER who belonged to my Ausendienststelle to make out a list of the persons to be arrested and then to proceed with their arrest. They dealt with Communist matters so that they presumably got the names out of data they had collected about communist agitators and anti-German minded persons.

After the people were arrested in HAREM all the data about them was sent to The Hague by my Dienststelle, and from it was settled who had to be shot."

"The retaliatory measures were settled in consultation between RAUWER as Hoofder Policieuführer and CHRISTIANSEN as Wehrmachtsbefehlshaber."

"The putting into effect of this announcement was done before the investigation into the murder had been closed. I remember that the preliminary investigation justified the conclusion here that the author(s) of this attack must be looked for in Jewish-communist circles, the more so that in similar happenings the perpetrators generally came from these circles";

Photo copy of a newspaper report dated 5th. Jan. 1944 (G 25) reading as follows:

"The Superior S.S. and Police Chief announces:

During the evening of 3rd. Jan. 1944 a murderous assault was made in LEIDEN on the head of the Labour Exchange there, GERARDUS WILLEM DIEDERIK. DIEDERIK was badly wounded on the public highway by a pistol shot fired from behind. This is undoubtedly a crime from political motives.

As a punitive measure the time when it is no longer permissible to be out of doors in LEIDEN has till further notice been set back to 9 p.m. and closing time for public buildings to 8 p.m. In addition some fifty inhabitants of LEIDEN municipality have been arrested, of whom in view of their political sympathies it must be taken that they approve of this cowardly murder assault.

Three persons resisted arrest, alternatively, tried to escape, and were shot during the attempt. It is probable that two people who could not be recognised in the darkness were the authors of the assault.

The population is herewith invited to join in tracing the authors. For information leading to the arrest of the latter a reward of f. 10.000.- is promised. Information in connection with the affair may be given to any German or Netherlands police authority".

Copy of a statement (procès-verbal) made out by G.J. VERHEIJ and J.v.d. LINDE, also W.I. RAUWER, all special police constables, (G 25) in so far as it contains the statement by MARIUS JACSEN; that in Jan. 1944, he went with an S.D. commando to LEIDEN where an attack had been made the previous day on the head of the District Labour Exchange; that their orders were to arrest a number of hostages there; that he did not know that some of these hostages were to be shot; that one HANS MOFFMAN and he went in a car to the house of Dr. FIU and arrested him; that the car was then driven outside the town and there MOFFMAN killed Dr. FIU with two pistols shots; that he did not notice any attempt to escape on Dr. FIU's part;

Copy of a statement (procès-verbal) made out by H. DOORST, police detective also special constable, LEIDEN, (G 25) in so far as it contains the statement of WILHELM K.I.E. MOFFMAN (page 11): that in Jan. 1944, some days after the assault on the head of the District Labour Exchange he, as acting police commissioner in LEIDEN, went to the Ortskommandantur in LEIDEN, and there heard the German WOEHL say: "Dass drei Leute unterwegs besetztigt waren oder mussten werden (that three people were or should have been accounted for while on the way)".

HERBERT WOELK (page 16); that on 3rd. Jan. 1944, he was informed in The Hague by S.S. Stambannfuhrer and Regierungsrat DEFFNER that the head of the District Labour Exchange in LEIDEN had been murdered; that this assault had been preceded shortly before by similar attacks in the LEIDEN area and for that reason, taking into consideration that LEIDEN must be considered as an important centre of resistance, RAUWER had settled on sharp reprisals, these being:

- "1. the taking over of districts in the town by Sicherheitspolizei patrols, streets being cordoned off in parts and persons examined, the object of this and a simultaneous use of firearms on crowds, being to demonstrate the strength and determination of the occupying power;
 2. arrest according to lists which would be made over to me of about 95 persons as hostages. These lists of hostages corresponded in substance with those which were present in all Aussendienststellen of the Sicherheitspolizei, including mine, and which were at my disposition;
 3. shooting of 6 people mentioned by name and specially marked on the lists with a cross as being persons carrying on illegal activities in the framework of the resistance organisations, giving material support and being the spiritual authors of terrorist actions. On political (propaganda) grounds the shooting must take place almost immediately after the arrest, if possible during transport; that he knew at the time that similar actions had already been carried out on several occasions in the Netherlands;
- that he had the orders carried out in a considerably mitigated form; that a number of people were, however, arrested as hostages of whom three, including Dr. FIU, were shot;

Statement (procès-verbal) made out by W. de CLERCK, special constable, SOEST (G 25), in so far as it contains the following as being the result of the investigation carried out by the latter:

"On the evening of 10th. Jan. 1944, near Hotel RAUWST in SOEST two members of the resistance movement who were transporting police uniforms were arrested by Dutch S.S. stationed in that place. Both of these persons managed to run off in the darkness however and escaped. The same night the S.S. made enquiries at several addresses in SOEST. Early in the morning of 11th. Jan. 1944, two S.S. men forced three cyclists in question and the S.S. men, one of the S.S. being badly wounded by a shot in the chest. The cyclists managed to escape. As a reprisal a razzia was held in SOEST on the evening of 14th January by the S.D. from AMSTERDAM.

*Trilling along
the Vinkenweg
in SOEST to stop.
A shooting af-
fray took place
between the
cyclists*

Twenty four persons were arrested as hostages during this, while two people were shot dead when so-called attempting to escape. These latter were: W.C. van GOCR, director of municipal works in SOEST, and J.V. NOUWMAN, a teacher of handicrafts, both living in SOEST. On 15th. Jan. 1944 three more persons were arrested by the S.D. and shot down, namely H. KOEHOFF, J.H. SCHMIDT and R. BRUNS. The two first lived in spite of being badly wounded, but the last must have died almost at once"; As statements by:

1. WILHELM LAGERS

"In Jan. 1944 an assault was made in SOEST on a S.B. soldier. By RAUWER'S orders about thirty inhabitants of SOEST had to be made hostages for this and five of them shot. The necessary measures were taken by Kriminalrat ALBERS and were put into effect;"

2. EMILE RUEHL, former Kriminalsekretär of the S.D. in Amsterdam:

"An S.B. soldier was shot down in SOEST in Jan. 1944. In connection with the reprisal measures my colleague OETHELAEGER received orders to make out a list of inhabitants of SOEST who were anti-German. As the latter did not know his way very well about SOEST, he asked me to help him which I did. We drove together to SOEST and went to the N.S.B. man LOEHN's house. From LOEHN, and somebody I took to be his brother, we got sufficient names to make out a list. This list was then forwarded to The Hague and there "tested" by the S.D., S.B. and Wehrmacht. After that I and several others received orders from ALBERS to go with this latter to SOEST. On arriving there we drove to the Ortskommandantur where patrols were formed. Each patrol received a short list giving the names of persons who must be arrested and which person was to be shot. My victim was a certain Dr. VOS but I did not find him at home, neither did I the other persons on my list. I thought myself very fortunate, but when we were back again in AMSTERDAM and it turned out that in all only two people had been shot this gave rise to "Ein grosses theater (a great scene)" Next day I had to go back to SOEST with a few others so as to make the figure up to five. Three more persons were in fact shot that day. The whole action was ordered by The Hague and very certainly not on its own initiative."

Photostat of a letter from the accused to HEIJER of 11th. Jan 1944 (G 7) in so far as it contains:

"For the last three weeks it has been comparatively quiet in the country and in general we dominate the situation 100% everywhere. A few days ago a Polizei-Oberleutnant, a member of the Germanic-S.B., was shot down from his bicycle. The same day I had 50 of the principal inciters in GROWINGEN and district arrested. During this 5 of these inciters were shot when resisting and trying to escape. This measure has had a marvellous effect. Next day an N.S.B. Arbeitsamtleiter (head of the Labour Exchange) in Leiden was shot from behind in the street in the dark. An operation was performed and ~~no~~ danger to life. In this case also I had 50 inciters arrested of whom 5 were shot, trying to escape. A series of murders is beginning again. In collaboration with the N.S.B., the Reich Commissioner's Beauftragten (special agents) and the Sicherheitspolizei, I have had lists carefully drawn up for the entire country so that the principal inciters lie there to hand and in cases of that sort we can strike at them at once. The arrested persons were sent to VOGHT for the duration of the war. Two members of the Wehrmacht were also shot, one of them in the early morning in The Hague on the road leading to VEGECHT. It was a deserter of long standing, a non-commissioned officer who had gone "underground" and he was found with a shot in the head. It is not a case of a political murder, but an act of revenge by "underground" circles. A non-commissioned officer was shot from his bicycle in GIDENHALL. The investigating commission is on its way there. It is presumably a case of jealousy on the part of a non-commissioned officer of the Mareschaussee for the latter's fiancée was in the company of the German soldier";

-photostat-

To be taken
by order of
The HAGUE

The bullet
removed
from a
kidney. There
is no longer

Photostat of a letter from the accused to HEILER of 15th. Jan. 1944 (G 3) in so far as it contains

"The same night that the head of the Labour Exchange in DEIDT was shot I had 50 inciters arrested there. Four of them were shot while resisting and when attempting to escape. With the Reich Commissioner's consent an S.S.- and Polizeistandgericht (S.S. and Police court-martial) sat in connection with the execution to be made by ROEMERDAI. It sentenced 3 communists and terrorists, leader and members, who were in custody, to death. The sentence was carried out this morning. The notice of the attack on this collaborator of the Sicherheitspolizei and the Standgericht's sentence followed each other in the day's newspapers in the form of an announcement by the Superior S.S. and Police Chief. In Amerfoort, or Soest rather, 50 inciters have also been arrested, 5 of them too being shot when escaping, alternatively when offering resistance.

These last two days I have twice talked at length with the Wehrmachtsbefehlshaber's Chief of Staff, Generalleutnant WUELLISCH, about the atonement to be made for the attack on the Wehrmacht man in Almelo. Von WUELLISCH won't go along with me. He is weak and feeble, one of those who wish to keep a "clean shirtfront". On the one hand the Unteroffizier has not yet died (shot in the abdomen with 12 shots through the intestines!) and on the other hand the W.B.N. demands that a closer connection with the perpetrator must at all events be produced. To this I answered that the official police enquiry had been wound up and that, further, there was no prospect of catching the author through the police. I suggested having 10 out of the 50 inciters whom I had had arrested the same night in ALMELO and district shot, as I was afraid that if nothing happened the number of attacks on members of the Wehrmacht would rise. I pointed to the AMERSFOORT case. To this Von WUELLISCH answered that that happened to be a Dutchman. He is as sticky as dough and just won't collaborate!

He then asserted that satisfaction for the S.S. man was a matter for the Wehrmacht and not for the Superior S.S. and Police Chief, as the Waffen-S.S. belonged to the Wehrmacht. I countered this by saying that the Waffen-S.S. are special disposal troops, which, via the Reichsfuehrer S.S., come directly under the Fuehrer and that only the active divisions are attached to the army, and with it the Wehrmacht, not however the E-units and, here, the S.S.-Wechbataillon Nordwest (S.S. ^{local defence} guard Battalion Northwest). He said he did not know all that, said however that the Wehrmachtsbefehlshaber was responsible for the military security of the country, although an assault on a soldier is a purely political affair. My attempt to give him a detailed account of the tasks of the Superior S.S. and Police Chief failed for those fellows of the upper General Staff simply will not try to understand.

The RH is amazed and shocked at the attitude taken up by Generalleutnant v.W., Chief of Staff (aid) In his last report he had already drawn the Fuehrer's attention to v.W., who repeatedly attempts to bring The Hague Arbitration Order into a decision on every possible occasion, for instance, in order to warrant the calling on of Dutchmen for the building of field-works. It appears with regard to this that General GERSHLAGER, who always affords to be extremely strong and only just lately after the Reich Marshall's visit was very much impressed by the full statements the latter made and wanted the whole of Holland to be "destroyed", fails ^{to come up to scratch} such integral matters and allows himself to be pushed aside by his advisers on his staff. The RH asked me to report the case to you, however, Reichsfuehrer, with the request to protest with regard to v.W. He is a pronounced society man with no core of hardness or powers of resistance, and allows himself to be influenced by events in a way which shows little of inward toughness, resolution and fighting power ~~and~~. I said to him that I wanted to get the satisfaction for the AMERSFOORT affair myself and that I don't allow the men of the S.S. to be shot down like rabbits. For the rest I shall report the matter to the S.S. Reichsfuehrer - I told him this - with the request that he gives a decision as to whether such attacks on members of the Wehrmacht can and shall be allowed to go unpunished when it is not possible to get hold of the author at once. He then finally asked if I would at any rate send the police report with the name of the inciter I proposed shooting to the W.B.N. in writing. That is what takes place now, but the Wehrmachtsbefehlshaber will never pluck up courage to do anything!

-photostat-

Photostat of a telegram from HESSLER to the accused (F 9) reading as follows:
"Letter 15th. received. No need to worry about the Chief of Staff. I order you
to carry out reprisal and anti-terrorist measures in the sharpest way. To neglect
such measures would be the only official crime which you could commit in these cases.
Complaints only do you honour;"

Accused: I admit the correctness of the three photostats mentioned above;
Photostat of an Announcement (F 47) reading:

"The Hoehere S.S. und Polizeifuehrer Herl est announced;
As a result of the cowardly attempt for political reasons on the life of the Attorney
General, Dr. J. Feitma, the following persons were summarily shot on 7th Feb. 1945
as a retaliatory measure:

1. J. SMILING, freemason and member of the Supreme Court,
2. Dr. W.J.H. DOES, vice-president of the District Court in this place,
3. Dr. H.J. HUISMAN, Judge of the Criminal Court in this place,
4. J. BAK, communist leader and leader of a resistance organization,
5. C.W. IRLMAN, communist medical practitioner; all of AMSTERDAM."

Statement (proces-verbal) made out by J. KOOL and J. BIJLSMA, both special constables,
AMSTERDAM, (F 45) in so far as it contains in substance the statement of the afore-
mentioned WILLEM LAGES:

that in the beginning of Feb. 1945 an attempt was made in AMSTERDAM on the life of
the wellknown member of the N.S.B., Dr. FEITMA, attorney general of the Criminal Court
in that place;

that shortly after this he heard telephonically from RAUWER that a number of per-
sons were to be executed; that a number of persons were then chosen from lists which had
already been drawn up and their names forwarded to The Hague; that The Hague then sent
along the names of five persons who were to be arrested; that on this list of five names
were some of people whose names had not been submitted to The Hague; that shortly after
this RAUWER personally gave him orders to have these five persons shot; that this was
in fact done;

Accused:

that he acknowledges that sometimes innocent persons were shot during the occupa-
tion by his orders as a reprisal for murders or murderous assaults on members of the
German occupying power; that the cases HARRIEN, SOEST and ABENHOUT, which have been
dealt with at the sitting, were among them; that he admits that the decision to this
effect was made each time by SEISS INQUART, CHRISTIANSEN and him, the accused, shortly after
the murder or assault; that the shooting in AMSTERDAM took place by order of HESSLER who
knew Dr. FEITMA personally and was very indignant at the result; that he, accused,
had this order carried out; that he viewed the assault on Dr. FEITMA, who had been appoin-
ted attorney-general to the AMSTERDAM Criminal Court by SEISS INQUART, as an act committed
against the occupying power which justified a reprisal; that he admits that the expression
"Auf der Flucht erschossen (shot when attempting to escape)" at that time often meant
that the person in question was deliberately shot dead by the police without an attempt
having been made to escape; that this was also the case in the happening at ISIDEN
which has been dealt with at the sitting; that in reality this case was a so-called "Sil-
bertanne" action which he, accused, had permitted, but that against his orders the killing
was done by the Sicherheitspolizei itself;
that further, in a number of other cases persons were publicly shot in the Netherlands
as a result of attacks on members of the German Wehrmacht or for other offences against
the occupying power;

that no innocent Dutchmen were shot on those occasions but so-called "Doelkandidaten";
that namely in July 1944 HESSLER suspended the "Gerechtigdetheit" (jurisdiction) which meant
that in future no proceedings by the judicial authorities might take place in criminal
cases but that the Sicherheitspolizei would in future determine what punishment should
be given with regard to those who had been guilty of a punishable act which had up to then
been tried by German courts;

- Maat.

that if in such a case the death sentence was decided on this sentence was not carried out at once but the person in question kept in custody until an event happened for which a public execution was considered necessary; that then a number of such so-called "Todes-kandidaten" were publicly shot at the same time; that these cases were submitted to him for his decision, except in the period from July till the end of October 1944, and that he then in each case gave the order to shoot;

Photostat of a newspaper report of 13 th. July 1944 (F 55) reading:
"The Superior S.S. and Police Chief and General Commissioner for Public Safety announces:

"On account of the cowardly political murder in ROTTERDAM on 15.7.44 of Mr. van DAMME, departmental head of the Municipal Registration Office, a number of terrorists and saboteurs already in custody were summarily shot on 17.7.1944;"

Statement (procès-verbal) made out by O. KERNHOVEN, special police officer, (F 55) containing among other things, that according to information from the ROTTERDAM Municipal Registration Office 6 of the persons in question mentioned in the above report died in LEUSDEN on 17th July 1944; that according to data in the possession of the prison administration department in ROTTERDAM Central Police Station these persons were shut up there on 5th July 1944, and that the following have declared as witnesses:

1. H.J. WORIK :

that he knows that a number of officials of the ROTTERDAM Registration Office were arrested for issuing false identity papers and having them in their possession and for distributing illegal publications;

2. ERNST HAERTEL:

that as Inspektionsrichter der Waffen S.S. fuer die Gesamten Westen (Waffen S.S. inspectorate judge for the whole west) he can state: that he does not know of a court martial having taken place on the persons mentioned in the report of 18th. July 1944; that he was informed of all such proceedings;

Statement (procès-verbal) made out by J. RUIT and R.H.J.J. FROMME (F 39) both special Constables, containing that an announcement was posted up in ZWOILLE at the time with the following contents and signed at the foot "29 th. Nov. 1944, the Hoehere S.S. und Polizeifuehrer Nordwest";

"During the evening of 27.11.44 armed terrorists attacked the farmer J. HUISMAN on his farm and shot down the latter's son HENRY, calling out to him that he was supporting the German Wehrmacht. H. HUISMAN was severely wounded. As a result of this a number of arrested terrorists and saboteurs were summarily executed on the evening of 28.11.44; these were : (here follow 10 names);"

that the investigation undertaken by him showed that these 10 people were already in custody in MEERSBOCK on 26th Nov. 1944.

Statement I in so far as it contains the declarations (pages 125 and 149) by:

DR. WILHELM RAUWER:

"From the middle of July 1940 till August 1943 I was Befehlshaber der Sicherheitspolizei und des S.D. in the Netherlands. RAUWER was my superior and could give me orders. In cases when repressive measures were ordered I received my orders from RAUWER and not from headquarters in the Reich. These measures were ordered me by RAUWER and were not decreed by me.

All orders affecting my sphere of activities regarding retaliatory measures, arrest and shooting of hostages, shooting of persons as a reprisal after acts of sabotage, and the arrest and deportation of students to Germany, were given me by RAUWER";

-Willy LANGE-

WILHELM LIEBS:

"I can state the following about the putting into effect of reprisal measures. In 1942, I cannot now remember the exact day, the Wehrmachtbefehlshaber CHRISTIANSEN and the Hoehere S.S. and Polizeifuehrer RAUWER issued a joint order concerning the taking of reprisal measures against the Dutch population in cases of sabotage directed against the occupying power. Whenever sabotage was committed this was reported to the Beauftragte des Reichskommissars (Reich Commissioner's Special Agent), the Ortskommandant and the head of the Sicherheitspolizei Ausendienststelle in the province or municipality concerned. These three made a joint suggestion about the reprisal measures to be taken. This suggestion was then submitted by teleprinter, or sometimes by telephone, to the Befehlshaber der Sicherheitspolizei who in his turn submitted it to RAUWER. RAUWER generally declared his agreement with the suggestion and via the S.d.S. gave orders for the reprisal measures in question to be carried out. This also happened with the imposing of fines on several Dutch municipalities, the declaring furniture confiscated in the case of a confiscated wireless ^{set} not being handed in or after Dutch policemen, railway personnel and burgomasters had gone "underground", the burning down of houses, shooting of hostages and prisoners, and shooting of civilians and prisoners for supposed sabotage. In my opinion RAUWER is personally responsible for all reprisal measures carried out with the exception of an occasional and purely Wehrmacht matter such as the PUTTEN and KROMMEHEE affairs.

I can remember that in certain cases after sabotage had taken place people who were already in custody for a serious offence against the occupying power were shot at the place where the sabotage had been committed in order to frighten the civilian population. The carrying out of this last reprisal measure always took place following an order from RAUWER given via the S.d.S.

War Ministry

After the invasion of France an order came from the Reichssicherheitshauptamt in BERLIN, in consultation with the Feldkommandant, abolishing the German civil and military jurisdiction in the Netherlands. It further appeared in this order that Dutchmen caught in the possession of weapons or explosives when committing sabotage must be "niedergemacht" (killed) on the spot.

It practically amounted to this, that such people were to be shot there and then without any sort of a trial. This order too was issued by Rauewer via the S.d.S. That this was the case appeared from the fact that in this order RAUWER was appointed "Obergerichtsherr" (chief magistrate) by the Reichssicherheitshauptamt. I can remember one case of a civilian being shot in ROTTERDAM as a result of this order. The handing in of wireless sets, arrest and transport to Germany of Jews and students, the seizing and holding in custody of hostages, arrest and detention of members of the family of policemen ^{certain} who had gone "underground", and the arrest and detention of doctors, were to ^{certain} knowledge all ordered by RAUWER."

Accused:

that he admits having given the order/ to shoot the officers of the Bevolkingsbureau (Registration Office) in ROTTERDAM; that he cannot admit the same with regard to the shooting of 10 people at STALDE; that however he considers the shooting in both cases to have taken place justifiably; that both these happenings namely belong to the group of so-called "Todesurteilungen" about which he has already spoken.

A Photostat of a telegram signed WUNDER dated 13th Sept. 1942 (G-1) containing: "To all leaders of the Ausendienststellen:

It seems appropriate to answer certain acts of terrorism committed by our opponent and the opponent of the N.S.D. with counter-terrorism. In so far as I have not already done so I wish verbally to explain the details of this as I see them. I therefore request the leaders of the Ausendienststellen to discuss them with me at our next meeting. With the permission of the Hoehere S.S. and Polizeifuehrer, S.S. C-Group RAUWER, S.S. Standartenfuehrer RAUWER as leader of the Germanic S.S. in the Netherlands will place suitable Dutch S.S. men at disposal for the carrying out of this counter-terrorism. It is thought that 3-6 men will be chosen from each "Standarte" (S.S. formation corresponding roughly to an army regiment) and these will be placed at the

- disposition -

disposition of the Sicherheitspolizei Dienststellen for the carrying out of this counter-terrorism. It is here clearly laid down that the carrying out rests exclusively with the Sicherheitspolizei Aussendienststellen, and the S.S. men will be used only for this purpose. Further more, in every case when counter - terrorism is going to be carried out this ^{must have} personal approval. The "Standarte" will immediately contact the Aussendienststellen.

I ask you to see that the S.S. Standarte treat this matter as a State secret."

Photostat of a letter from the accused to WEIMER of 27th Sept. 1943 (G 2) containing among other things:

2) The Politienarrichter in AMSTERDAM is sitting on 30.9.1943 to try 25 persons who have taken part in 52 punishable offences. The assaults on the lives of General SEITWART, Generalsekretär RHEIDOM, Generalsekretär ROSSMILL and a number of Dutch police officers will then be publicly announced. It is a nice little bunch of would be murderers who will be condemned to death there. 10 were sentenced to death these last few weeks. The present lot will make a great impression in the Netherlands. It must be put beyond doubt that the German police will keep pace step by step with the perpetrators of such deeds and will see that they get their due punishment. I am expecting this to have a restraining effect. In spite of the series of the last few weeks the attacks in DRENTHE province and also in UTERECHT have not stopped. A farmer was shot in DRENTHE the day before yesterday and his wife badly wounded. Three weeks ago the same man's farmhouse was burnt down. I charged the municipality with the cost of the farmhouse as an act of atonement; it will have been for that reason that the farmer has now been shot.

Two of his sons are with the Waffen S.S. in the east. I have given orders:

- a) that 200 sporting guns with arms licences be placed this very day at the disposition of N.S.B. farmers in isolated districts in DRENTHE;
- b) that 100 known inciters in DRENTHE province be at once arrested and taken to the concentration camp;
- c) that, since the christian forbearance of Mr. MUSSERT does not allow of counter actions being carried out, suitable men belonging to the Germanic S.S. in DRENTHE will strike a counter-blow under the direction of our people and put three of the chief inciters in the bag as an answer to the despicable act against the farmer. A little while ago MUSSERT issued a proclamation in which he stated that he was against the shooting of hostages although the occupying power had several times placed such at his disposal on account of the shooting of members of his party. He was against this on political grounds as his task in the future as in the past was to win the hearts of his people.

I have warned the Reich Commissioner, Dienstleiter RITTERBUSCH and MUSSERT himself about this proclamation. From my own activities in SYRIA I know the effects of such a feeble proclamation. The proclamation itself acts as an exoneration for us, for the Netherlands national socialists are saying that we want to act all right but that MUSSERT however will not.

He has done himself in properly. The N.S.B. men all through the country are cursing their chief up and down for letting them be slaughtered like sheep and they are now all turning to me. MUSSERT is very dejected about it."

Photostat of a letter headed The Reichsfuehrer of the S.S. Personal Staff, dated Oct. 1943 and addressed to the accused (G 3) containing among other things:

"The Reichsfuehrer S.S. considers the measures under a, b and c ordered by you for the murder of the farmer in DRENTHE to be ~~correct~~ ^{correct}, especially that under C with which he is in complete agreement."

Letter from the head of the F.R.A. (political Investigation Department) in BRONKHORST, dated 2nd. Oct. 1947, in which it is stated that a Silberkann action took place in WEIMEL on the night of 28th - 29th Sept. 1943;

Photostat of a "Fernschreiben" (teleprinter message) from the ROTTERDAM Aussendienststelle to the Befehlshaber der Sicherheitspolizei dated 23th Sept. 1943, concerning "Terrorakte"

"Terrorakte" (terrorist acts) (G 4) containing:

"S.S. Standartenfuhrer FELDMEYER, accompanied by S.S. Schutrfuhrer BIEB, spoke here today about the above matter. He has detailed off 4 S.S. men for the object known to you whose names he will forward in writing. These 4 will shortly receive orders to come here to talk things over thoroughly. Furthermore S.S. Standartenfuhrer FELDMEYER offered to undertake the exhaustive training of these men, this also to include shooting practice. I intend accepting this offer unless I receive instructions to the contrary from your end";

"Photostat of a letter from the accused to HITLER dated 14th. Oct. 1944 (G 5) containing:

Van GELDEREN spoke extremely decently at an important "party" gathering in Amsterdam a week ago. It was a 100% acknowledgement of the Fuehrer and the Reich and also of the mutual struggle. He was all for it that if one National-socialist was shot three others must fall by counter-terrorism. When I spoke to him about the matter yesterday he said that it could not be brought home to anyone ^{and} did not affect his camp in any way but that all the same three men on the opposite side were said to have fallen in each of two cases already and it was not known how this had happened. He suspects the Germanic-S.S. In any case he was entirely of the same opinion and very pleased at this development. S.D. reports say that in the provinces where the "Silbertanne" action has got going the "antis" no longer dare to show themselves in the streets after dark and a great panic prevails there. I hope, and I will also take up the subject further in 's-HERTOGHE BOSCH on Sunday, that in future Messrs. the burgomasters and Netherlands police circles will bother themselves more about the public peace and order; were they to neglect it it would lead to the arming of the National Socialists. I think that if we play our cards properly we can compel the police authorities to take more active action";

Photostat of a letter to the accused signed H. HITLER of 1st. Nov. 1943 (G 6) containing among other things:

"From now on I agree that counter-terror attacks shall be carried out and each case of an attack on members of the N.S.B. or pro-German Dutchmen shall be answered by attacks from our side on some prominent opponent known to us, indeed our answer for one attack by the other side will be 5-6 attacks by us. The police are not to arrest the authors in any of these cases.";

A Statement (procès-verbal) made out by H.v. HEES and A. de JONG, both special constables (G 11) in so far as it contains the statement by

JAN LOUIS JANSCHINS:

"I know that FELDMEYER, leader of the Germanic S.S. in the Netherlands, was summoned by RAUTER in the autumn of 1942 (this must be 1943) on account of a political murder which had just taken place. It was decided at this meeting to resort to retaliatory measures. These murders would be called by the cover-name "Silbertanne". These reprisal murders would take place in collaboration with the Sicherheitspolizei of the place where the action was to happen. KROON of the D.A.S. would be let know all about it by RAUTER.

Further it was decided that whenever a "Silbertanne" was to be carried out RAUTER would pick the members of the S.P. while FELDMEYER would do this as far as those of the Germanic S.S. were concerned. A joint action would then take place. It was arranged that the Sicherheitspolizei would see to the necessary transport, also clothing and possibly false papers. FELDMEYER told me these details himself. FELDMEYER then called all the Standarten leaders together and told them about things. One of the first actions by this Commando took place in May (must be end of Sept.) 1943 as the result of the political murder of an N.S.B. man (a farmer) in RUINERWOLD.

This action consisted in the murder of the surgeon ROBINSON in LEEUW. ROBINSON was fetched out of his house by some members and shot dead. The commando then went to SMITHORST, where a Master at the Christian School was murdered. After this the commando went to OEDHEISVAART and there murdered a garage keeper. All this took place on the same night. The following members of the Germanic S.S. were present at this action; van EPPEN, C.B. HENCK (Heren) SIED and probably LAMMER.";

Statement (preceed-verbal) made out by J. KOGI, special constable, (G 15) in so far as it contains the statement of GEORGE WILHELM E., former Sicherheitspolizei and S.D. Ausendienststelleleiter:

"About Sept. 1943 I heard from the B.d.S. that I was to go to a conference in ASSEN. I went there taking my deputy, BELIER, with me. BELIER was at the same time leader of Group 4, the executive section of the S.D. in Groningen. Among others present at this meeting was Sturmabfuhrer DEINER, leader of the executive branch of the B.d.S. DEINER did the talking and said that the Superior S.S. and Police Chief RAUWER and the Reich Commissioner BEISS INQUIRE were of the opinion that terrorism could only be put down by counter-terrorism. He then told how this counter-terrorism was to take place. The leader of the Netherlands S.S., FELDMEYER, was mentioned here as a person who knew all about the matter. The actions were to be carried out by the S.D. in close cooperation with the Germanic S.S. Orders would be given by the B.d.S. The main idea was that everywhere where assaults on members of the H.S.B. or other National-Socialists took place there should be a counter-action. This was intended purely as a reprisal. Everything concerned with the matter must of course be kept strictly secret. For that reason the name "Silbertanne" was given to everything connected with this business, this name being used particularly in telephone conversations.

The following directives were also given:

If an act of terrorism had taken place anywhere the leader of the S.D. Ausendienststelle concerned, this for the north was me, reported this to the B.d.S. The answer from the B.d.S. came back by telephone or teleprinter. This would be "Silbertanne" with a number, this meaning the number of people who were to be shot. Groningen, Friesland and Drenthe came under the "Ausendienststelle Groningen". In the course of time I reported several cases of local terrorism to the B.d.S. I then received an answer the above way.

The rule was that for one person shot dead by terrorists three must be done in by "Silbertanne". I received these orders in most cases from DEINER. On one occasion only, from SCHNIEDER and HARDS. The names of the persons to be shot were not mentioned by the B.d.S. The leader of the Ausendienststelle concerned must seen to this. The B.d.S. had given the further order with regard to the persons to be shot that they must belong to that group of whom it could be taken that they approved of the act of terrorism in question. The first "Silbertanne" action was the one in MEPPEN and neighbourhood.

One further thing I can say in this connection is that FELDMEYER was with me once and spoke to me about "Silbertanne". He said then that the General Commissioner for Public Order and Safety had given orders that "Silbertanne" should automatically operate after each act of terrorism, so already before the order from the B.d.S. to this effect had come. I said to FELDMEYER however that I was only going to proceed to measures of that sort if the order was given by the B.d.S.;

Statement I in so far as it contains the statements (pages 135, 136 and 121) of WILHELM RAUWER formerly General-Major der Polizei:

"From October 1943 till the beginning of June 1944 I was Bereichshaber der Sicherheitspolizei und des Sicherheitsdienstes in Holland."

"RAUWER personally informed me of the coming into being of the "Silbertanne" action.

RAUWER gave the order for a "Silbertanne" action to be carried out, those concerned being designated by the Germanic S.S. in the Netherlands.

RAUWER gave the order for the carrying out of a "Silbertanne" action partly through me, partly through the Germanic S.S. I cannot say whether the names of the Dutchmen concerned were first submitted to RAUWER and whether he first had to say if he agreed to them. I never gave an order myself with regard to this nor received such an order from Berlin. RAUWER caused the German Sicherheitspolizei to take part in the above action. RAUWER was responsible for the "Silbertanne" actions in Holland and also for the

- repressive -

repressive measures taken after June 1944.
The word "Silbertanne" was only a cover name for a repressive measure".

WILLY JAGES aforesaid:

"I can make the following statement about the "Silbertanne" actions. In August or September 1943 I was invited by the Befehlshaber der Sicherheitspolizei, S.S. Brigadefuehrer MAUMANN, to come to The Hague in order to take part in a conference led by RAUTER. The following Aussendienststellen leaders took part in this conference; WOIK from Rotterdam, HASE from Groningen, HADERS from Den Bosch, ENGELHOF or HUENI from Arnhem, STROBEL from Maastricht and SCHREIBER and DEFFNER of the Sipo in The Hague. MAUMANN had a "geheime Reichssachebefehl" (secret order on a Reich matter) from Berlin. It appeared from this order that the political murders in HOLLAND were to be conducted in the sharpest possible way. The practical carrying out of this order amounted to, that after every political murder committed one or more other Dutchmen coming from intellectual circles and known to be enemies of the occupation were to be shot. The shooting would be done after consultation between RAUTER, MAUMANN and FELDMEYER by specially chosen men from the Germanic S.S., the so-called "Commando FELDMEYER". The leaders of the Sipo Aussendienststelle were charged to help the Sonderkommando FELDMEYER and to protect it if such a reprisal measure, which later received the cover-name "Silbertanne", had to be carried out. Under helping came putting arms, ammunition and transport at its disposition, as well as covering the retreat after the carrying out of a "Silbertanne" action and ~~preventing~~ a possible investigation by the Dutch police in a certain direction so as to prevent the authors being traced. RAUTER knew all about this murder plan which was devised, and as head of the German police in each individual case furthered and made the carrying out of it possible. If RAUTER had wanted to do so he could have prevented this plan from being executed as far as the Netherlands were concerned. I wish to remark further that contrary to other reprisal measures a proposal was never sent in via the B.D.S. in these cases. The order to carry out each "Silbertanne" action came direct from RAUTER, who is thus entirely responsible for each of these actions. After the aforesaid conference I did in fact receive orders three times to assist a commando of the Germanic-S.S. with the shooting of a certain Dutchman. Here I would like to add that after some "Silbertanne" actions had been carried out by the "Sonderkommando FELDMEYER" I had a conference with the B.D.S. MAUMANN in The Hague. During this I told MAUMANN of my objections to the carrying out of these "Silbertanne" actions by FELDMEYER's Sonderkommando. I asked MAUMANN that if these sharp reprisal measures had to be carried out he would let this be done by the Sicherheitspolizei. As a policeman I did not find it fair that Dutchmen should carry out reprisals for which the occupying power bore the responsibility. MAUMANN shared my point of view 100%. He then rang RAUTER up in front of SCHREIBER, WOIK, HASE, ENGELHOF and me. MAUMANN told RAUTER of my objections. RAUTER must have become very angry after this. He called MAUMANN a communist and stated that the orders were to be carried out as given. RAUTER rang me up personally next day and said that I was to carry out the "Silbertanne" with Sicherheitspolizei personnel. The Germanic S.S. were excluded from that moment. After that I received orders a few more times to carry out a "Silbertanne". These orders were mostly signed by DEFFNER. DEFFNER was head of all the Sicherheitspolizei in the Netherlands. I can still remember that I made out a report for the B.D.S. about a political murder which had been committed. This report was submitted to RAUTER and RAUTER then drew some little fir-trees on it, after which I got it back with an order to carry out a "Silbertanne". I saw that RAUTER had drawn the fir-trees in pencil on this report. RAUTER also once told me personally by telephone that FELDMEYER was coming to see me in connection with the "Silbertanne". FELDMEYER did in fact come and introduce himself to me. I had a short conversation about carrying out the "Silbertanne" with him in the presence of his adjutant VERTMAN from NOORD-HOLLAND".

-Accused-

ACCUSED:

That about the summer of 1943, in connection with the great number of murders of members of the N.S.D., he received orders from HIMMLER to have 10 other people killed for every N.S.D. person who was murdered; that in consultation with SESSINGHAUSEN he decided to keep the order to themselves for the moment and not to carry it out; that SESSINGHAUSEN wanted namely to get the number of numerous assassins reduced with the help of the religious bodies; that about this time WILHELM, leader of the Germanic S.S., went to Germany and there learnt of the existence of this order; that WILHELM then began to agitate in the Netherlands because the order was not being carried out; that SESSINGHAUSEN then said to him, accused, that it was no longer now possible to keep the order back; that he then gave orders to carry this out on the understanding that 3 Dutchmen were to be secretly killed for every N.S.D. man murdered; that the name "Silbertanne" was given to this action; that he saw to it that the members who carried out these actions were not traced; that in all 45 Dutchmen were killed in this way; that on the other hand about 95 members of the N.S.D. were murdered during the occupation;

that in the beginning of 1940 he held the ranks of General-Major der Waffen S.S. and S.S. Brigade-fuehrer, was later promoted to General-Leutnant der Polizei and to S.S. -Gruppenfuehrer, and finally became General der Waffen S.S., General der Polizei and S.S.-Obergruppenfuehrer;

Considering that, on the grounds of the above evidence and of that which is of generally knowledge, and in connection with the deliberations which will follow, the Special Court unanimously considers proved that the accused committed that with which he has been charged, with this understanding, that the policy against the Jews appearing in the citation was not begun in 1940 but later, and with the understanding that the "introduction of control by means of the 2nd. ration registration card (preparation began summer 1943)" mentioned in the charge under II, and the term "racist" which appears in the charge under IV, have not been proved; Considering that the facts and circumstances appearing in the above evidence have led to this decision;

Considering that the accused has indeed denied that he knew at that time that the deportation of the Jews would result for many in their death;

Considering that the Court assumes that in view of his position the accused knew that Germany was pursuing a policy of persecution against the Jews, the object of which was to eliminate them from Europe, and that he agreed with this policy, as appears from the speech he made and his correspondence with HITLER; that the Court assumes for the same reason that the accused was also fully aware of the threats uttered by HITLER against the Jews, which threats have been mentioned in the citation from the Judgment given above;

Considering that the Court further assumes that the accused knew how the leading Germans thought in general about the Jews and how they treated them;

Considering that on all these grounds it must be assumed that the accused understood - even if at the time he possibly did not foresee - that nearly all Jews would be killed in the way which Hitler turned out to be the case. That the deportation of the Jews, which also included children, the aged and infirm, would result for many in their death and that this therefore was one of the objects of the German policy against the Jews;

Considering that at the sitting the accused has advanced that the deportation of young Netherlands belonging to certain troops took place on military grounds as a landing was feared, but that this does not do away with the fact that these deportations also fitted in with and formed part of the measures which were taken in general against the Netherlands working population with the object of forcing the latter to work in Germany; that it is possible that, within this general framework, it was more on account of military considerations that a certain group was taken care of more

- sharply -

sharply proceeded against, but that this does not alter the nature of the whole in any way;

Considering with regard to the HILSHUIS case, that the accused has put forward in his defence that he did not approve of the imposition of the fine of f. 100,000.- and for that reason altered one of the documents which was sent off at that time in connection with this affair, expressly stating in it that the fine was imposed by the Reich Commissioner;

that one of the documents in the file does in fact show such an alteration; that however, the letter to the municipality in which the measures imposed were stated, the records copy of which bearing the accused's signature is also in the file (A 14) and of which a short summary has been given at the sitting, does not show this alteration;

but that the Court is of the opinion that all this shows that there was a difference of opinion with regard to this matter, that this does not do away with the fact that the accused took upon himself to carry out these measures and to that extent is jointly responsible for them;

Considering that at the sitting the accused has repeatedly advanced that the facts being dealt with there belonged to other branches of the service than his, or that certain demands had been made by Berlin or the Wehrmacht, or that his actions were in agreement with decrees issued by the Reich Commissioner, or even that the latter charged him with these actions, but all this is of little importance when judging the question as to whether he committed the acts charged, because he is not reproached with having committed the acts discussed at the sitting by himself alone, but only that each time he had a definite part in carrying them out, which part is further specified in the charge and which in the judgment of the Court has been established by the evidence with a single exception;

Considering that the Court rejects the accused's defence that some of the acts were unknown to him, because the evidence proves that he received regular reports and the Court is therefore convinced that the accused was fully aware of all that took place in his domain and so, in view of his position, bears the responsibility for it;

Considering that the Court wishes now to examine whether the acts declared proved are unlawful in the sense of international law;

Considering that in the first place the Court assumes that the tendency of international law, especially the Rules of Land Warfare, is to impose limits on the occupant and not to give the occupant certain rights over the population of the occupied territory;

Considering that the Court further assumes that no distinction is made in international law between a lawful and an unlawful war, and as a result no distinction is made between a lawful and an unlawful occupant;

Considering indeed that it is often difficult to make out which of the belligerents has right on its side, and as a result it is unalterable that this distinction is not in general made in international law;

Considering that, although in the present case and also according to the deliberations in the Judgment, the invasion of the Netherlands by Germany cannot find a single justification, and war was begun by Germany against the Netherlands without any previous declaration of war or even an ultimatum, as the Court itself knows, the Court will associate itself with the view that no difference must be made between a war lawfully or unlawfully begun;

Considering that this therefore involves that not everything done by the German occupant in the Netherlands is unlawful in the sense of international law, and that not every enquiry into the unlawfulness of the occupant's actions is superfluous;

Considering that it will therefore be necessary when judging the acts charged to see each time whether these are or are not unlawful according to international law;

-considering-

Considering that, according to the Court's conviction, it has appeared from the examination at the sitting that during the time of the occupation the accused never, or practically never, asked himself whether a certain measure ordered by him was or was not in conflict with international law, and that on the contrary he showed contempt for General VON WUESTEN, General CHRISTENSEN's Chief of staff, who did bring up this subject; that the Court has the positive impression that the accused when deciding on his policy during the occupation allowed himself to be guided alone by considerations as to whether these answered the purpose; that it is also then clear that the accused's appeal to international law is now only made to try and justify his acts after the event, but that this cannot dispense the Court from enquiring into them;

Considering that the Court will grant the accused that, viewed from the German standpoint, the resistance in the Netherlands to the occupying power could be considered as unlawful because the illegal fighters in the Netherlands did not fulfil the demands laid upon legal fighting forces in the Rules of Land Warfare, and that the accused was therefore justified in acting against this resistance;

[That it results from this that resistance]

Considering that, to prevent any misunderstanding the Court here wishes to add that from the Netherlands point of view this matter can be looked at differently, because the occupying power only exercises a factual and not a legitimate authority, so that the population of the occupied territory is in general neither ethically nor juridically obliged to obey it as such; to the enemy in the occupied territory can be a permissible weapon; that there is no contradiction in this because this illustration appears more than once in the Rules of War,)

especially in the case of espionage which is considered as a lawful weapon, while at the same time the belligerent party which gets hold of a spy belonging to its opponent has the right to punish such spy, even with death;

Considering that the accused and his counsel have appealed to the pacts which were concluded on 15th May 1940, the first by the commander-in-chief of the combined army and navy entitled "Bedingungen fuer die Uebergabe der Niederlaendische Wehrmacht" (Conditions for the surrender of the Netherlands forces), the second on behalf of the latter and entitled;

("Verhandlungspunkte" (points for negotiation);

Considering that these pacts, which as far as was necessary were read out at the sitting, together with the "Elucidation of the Capitulation Treaty" by Captain DR. J.D. SCHILLERS of the General Staff, which belongs to them, contain:

the first pact:

"The entire Netherlands forces count as prisoners of war."

"5. An order is to be issued to the administration of towns and communes that every hostile action against the German army, its members and establishments, must be refrained from and that absolute peace and order must be maintained.

It must be pointed out that actions to the contrary will be severely punished according to German law.

"7. German troops will not occupy that part of Netherlands territory not yet occupied by them. The occupation is to be assisted by the Netherlands authorities in every way;

"8. post alia:

General-major SCHILLER is appointed by me to negotiate — the providing for the needs of the Wehrmacht and the administration of the country";

the second pact:

"5. Until a final arrangement has been made by the German Government the administration of the country will be carried out by a German administration which will make use of the Netherlands Government's departments.

"6. The Netherlands authorities will see to peace being kept in the country. For this purpose all police organs are to be retained in service;"

Considering that the Court does not share the view of counsel and the accused that from

-this-

this it follows that it was the duty of the Netherlands Government in London to refrain from inciting the population in the Netherlands to resist the enemy;

Considering that according to international law a capitulation treaty is a pact between commanders of belligerent forces for the surrender of certain troops or certain parts of the country, towns or fortresses, and which as such must be scrupulously fulfilled, that the commander who concludes such a pact must not be considered empowered to bind his government to a permanent cession of territory, to a cessation of hostilities in territories which do not come under his command or, in general, to provisions of a political nature which are not contained in the capitulation treaty, and that such provisions are then also only binding in a capitulation treaty if they are ratified by the governments of both belligerents;

Considering that it may further be accepted that provisions concerning the population and the taking-over of the civil administration may certainly appear in a capitulation treaty;

Considering now with regard to the pacts to which the defence appeals, that it is clear from the title, "Bedingungen fuer die Uebergabe der Niederlaendisch Wehrmacht", and the whole contents of this document that it is a capitulation treaty;

that this is also confirmed by the following passage from the elucidation: "At RIPSCHORD General v. RUPCHER asked whether General WIEGEMAN was qualified to speak in the name of the forces as a whole and whether his orders would be followed. General WIEGEMAN stated that he was qualified to speak for the forces in European jurisdiction with the exception of ZEELAND, and that his orders would be carried out";

that it certainly is correct that in a proclamation to the Netherlands population General WIEGEMAN named himself the supreme representative of the Netherlands governmental authority, and that it can also be accepted that before the government left he was given far-reaching powers, but that this does not do away with the fact that the pacts to which the defence appeals are purely a capitulation treaty with an agreement for further regulations as to how the same is to be carried out, pacts by which the Netherlands forces in so far as they were under General WIEGEMAN surrendered, which pacts had no political implication and therefore also laid no obligations on the Netherlands Government or on the population of the occupied territory; that the Court is strengthened in this conviction by the circumstance that no appeal was ever made to these pacts from the German side during the occupation to demonstrate that the Government in London was acting unlawfully, and these pacts were never made public accompanied by an admonition to the Netherlands population to keep calm, which in the circumstances the occupying power would never have failed to do had it been of the opinion that these pacts contained the implication which the defence now wishes to attribute to them;

Considering that these pacts were strictly adhered to on the Netherlands side, and that in particular article 5, in which it was laid down that an order was to be given to the Netherlands population that it must refrain from hostile acts and keep absolute peace, was carried out, for General WIEGEMAN did in fact issue a proclamation to the Netherlands nation in which it was exhorted to all this;

Considering that on these various grounds the Court then also accepts that the Netherlands Government in London was justified in inciting to resistance in this Country, and that it cannot be reproached for having had arms dropped for this purpose on occupied Netherlands territory from aeroplanes, which latter war transaction furthermore formed part of the allied war operations against Germany for which the Netherlands Government does not bear the sole responsibility;

Considering that on the grounds of all this the Court also puts aside the

-counsel's-

the accused's defence that the attitude of the Netherlands Government further gave him the right to ignore the whole of the Rules of Land Warfare;

Considering in this connection that it may be further remarked, that the underground resistance in this country arose and gradually developed as a natural and also justifiable reaction and resistance to the actions of the occupant against the House of Orange, through which actions the Netherlands population was seriously ^{shocked} in its feeling of attachment to its lawful Sovereign, against German behaviour to the Jews, the deportation of Netherlands workers for the Arbeitsinsatz, the pitiless oppression of the Netherlands population and, last but not least, the attempts to unify and Germanify our country, all of which measures were in flagrant conflict with international law;

Considering that counsel has also appealed to the instructions given by the Netherlands Government in 1937;

Considering that, apart from the fact that these instructions were never published or generally made known in any other way, in the Court's opinion they have no further significance than that of a warning to Netherlands officials in which at the same time, rules were given for the attitude of the population with a view to possible reprisals on the part of a pitiless enemy, and that these instructions have in no way the tendency to characterise such behaviour on the enemy's part as permissible;

And now to go over to the examination of the question as to whether the various facts declared proved are unlawful;

Considering that it is clear that both the regulations against the Jews as well as the deportation of part of the Netherlands population for the Arbeitsinsatz - students taken away in virtue of the measures of May 1943 being included - have been contrary to the provisions of international law, more especially articles 41 and 52 of the Rules of Land Warfare which lay down:

"The honour and rights of the family, the lives of persons, private property, religious convictions and public worship shall be respected."

"Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country."

Considering that the theft of household effects is also in such clear conflict with the said articles that there is no need to go further into the matter with regard to this;

Considering with regard to the seizure of wireless sets:

that the Rules of Land Warfare lay down in article 52, section 2:

"All means on land, sea or in the air for the transmission of news and for the transport of persons or goods, apart from those cases controlled by maritime law, all stocks of arms and in general every sort of war munition, can be seized even if belonging to private persons, but they must be returned and compensation arranged for when peace has been declared;"

that therefore the occupant could seize wireless sets with the obligation of returning these later but he might not confiscate, so that the act declared proved was unlawful; that the Court can however understand that the Germans had a great and justifiable interest in calling in wireless sets because radio plays a great part in modern warfare, and also (this in connection will not count it against the accused that the judicial difference between seizure, with the obligation of returning the object seized, and confiscation escaped him;

Considering with regard to the action taken against members of the family of policemen who "went underground":

that the Court does not wish to dispute with the accused or to say that these men had committed a punishable offence and/or it could be expected that they would join

the underground fighters; because in any case it is contrary to every principle of justice to deprive of their freedom members of the family of those suspected of having committed or of going to commit a punishable act.

Considering with regard to the public shooting of the so-called "Volkskandidaten": that from information the accused has himself given it follows that in connection with the abolition of the Gerichtsbarkeit a large number of Dutchmen were killed without a judicial hearing after the Sicherheitspolizei had decided that they were deserving of death; that by this measure, which is contrary to every principle of justice, the guarantees offered by criminal proceedings were entirely excluded; that this is all the worse because the number of punishable acts for which the death penalty was laid down was then very extensive, this too in connection with the so-called "Standrecht" (martial law), and that furthermore these people were killed in such a way as to inspire horror; that for that reason the Court is of the opinion that this whole way of acting, apart from the question as to how far it can be considered as a justifiable reprisal, is contrary to the provision of the Rules of Land Warfare laying down that the lives of persons must be respected;

Considering that the collective fines which were imposed in various cases were based on the Verordnungen (Ordinances) 7/44, arts. 1-4, 138/44, arts 3-53 and 1/44, arts 59-61, whereby it was laid down that in the latter acts which took place or will take place after 25th. May 1940 and which are against the interests of the German nation or of the Great German Reich, an obligation to pay compensation for the damage and expiation (Euchneleistung) money may be imposed, and that this was done by the Reich Commissioner for the Occupied Netherlands Territories (Commissioner General for Public Safety); that this Ordinance is not in conformity with article 50 of the Rules of Land Warfare which lays down that no order made be made against the population for a collective penalty of any sort, whether pecuniary or of any other nature, as a result of individual acts unless the population as a whole can be mainly considered responsible for such acts; that therefore the imposition of a collective measure such as expressed in the aforementioned Ordinance would only have been justified if an inquiry had first taken place and it had been established that the condition laid down by international law, namely that it must be possible to consider the population as a whole collectively responsible, had been satisfied; that when the question was put to the accused as to whether he caused such inquiries to be made he made no answer and from this the Court assumes that this was not the case; that furthermore, it is a matter of general knowledge that the cutting of German Wehrmacht cables was usually the work of persons acting on their own initiative and having very little sense of responsibility, and that, for instance, it was the habit of the population as a whole to refrain from such acts which did not hurt the enemy to any great extent and gave him a pretext for acting in a barbarous manner against the population; that it results from this that the imposition of these collective fines was unlawful in the sense of international law unless they are to be considered as a justifiable reprisal;

Considering that with regard to various acts charged against him the accused had advanced that these were reprisals permitted by international law;

Considering that it is in fact generally accepted that a belligerent has the right to take reprisals as a reprisal for unlawful acts of war committed by the opponent;

Considering that there exists a doubt over the question as to whether a collective fine may be imposed and innocent citizens killed by way of reprisal;

Considering however, that, although as far as the Court knows Germany is the only country in modern times which has proceeded to kill innocent citizens in occupied territory for the purpose of maintaining peace and order and that, too, in a way contrary to the most elementary conceptions of humanity and justice, in a judgment by the American Military Tribunal in the case against WILLIAM LEST and others it is accepted, with an appeal to American, English and French regulations, that the above question must be answered in the affirmative;

that the Court, a criminal case being concerned here, wishes to accept the view most

-Favorable -

to the accused and will therefore associate itself with the aforesaid judgment;

Considering that this judgment, however, makes certain conditions which a reprisal must satisfy if it wishes to be considered justified, and in this connection makes the following reflections (page 13450 and following):

"Generally it can be said that the taking of reprisal prisoners, as well as the taking of hostages, for the purpose of controlling the population, involves a previous proclamation that if a certain type of act is committed a certain number of reprisal prisoners will be shot if the perpetrators cannot be found. If the perpetrators are apprehended, there is no right to kill either hostages or reprisal prisoners.

As in the case of the taking of hostages, reprisal prisoners may not be shot unless it can be shown that the population as a whole is a party to the offence, either actively or passively. In other words, members of the population of one community cannot properly be shot in reprisal for an act against the occupation forces committed at some other place.

To permit such a practice would conflict with the basic theory that sustains the practice and conflict with the basic theory that sustains the practice in that there would be no deterrent effect upon the community where the offence was committed. Neither may the shooting of innocent members of the population as a reprisal measure exceed in severity the unlawful acts it is designed to correct. Excessive reprisals are in themselves criminal and guilt attaches to the persons responsible for their commission.

It is a fundamental rule of justice that the lives of persons may not be arbitrarily taken. A fair trial before a judicial body affords the surest protection against arbitrary, vindictive or whimsical application of the right to shoot human beings in reprisal. It is a rule of international law, based on these fundamental concepts of justice and the rights of individuals, that the lives of persons may not be taken in reprisal in the absence of a judicial finding that the necessary conditions exist and the essential steps have been taken to give validity to such action. The possibility is great, of course, that such judicial proceedings may become ritualistic and superficial when conducted in wartime but it appears to the best available safeguard against cruelty and injustice. Judicial responsibility ordinarily restrains impetuous actions and permits principles of justice and right to assert their humanitarian qualities. We have no hesitancy in holding that the killing of members of the population in reprisal without judicial sanction is itself unlawful. The only exception to this rule is where it appears that the necessity for the reprisal requires immediate reprisal action to accomplish the desired purpose and which would be otherwise defeated by the invocation of judicial inquiry. Unless the necessity for immediate action is affirmatively shown, the execution of hostages or reprisal prisoners without a judicial hearing is unlawful. The judicial proceeding not only affords a measure of protection to innocent members of the population but it offers, if fairly and impartially conducted, a measure of protection to the military commander, charged with making the final decision.

It cannot be denied that the shooting of hostages or reprisal prisoners may under certain circumstances be justified as a last resort in procuring peace and tranquility in occupied territory and has the effect of strengthening the position of a law abiding occupant. The fact that the practice has been tortured beyond recognition by illegal and inhuman application can not justify its prohibition by judicial fiat;

Considering that in general these findings are in agreement with the American and English military regulations from which the Court wishes further to quote the following:

Manual of Military Law : articles 456, 459.

"An infraction of the laws of war having been definitely established, every effort should first be made to detect and punish the actual offenders. Only if this is impossible should other measures be taken in case the injured belligerent thinks that the facts warrant them. As a rule the injured party would not at once resort to reprisals, but would first lodge a complaint with the enemy in the hope of stopping any repetition of the offence or of securing the punishment of the guilty. This course should always be pursued unless the safety of the troops requires immediate drastic action, and the persons who actually committed the offences cannot be secured.

- What -

That kinds of acts should be resorted to as reprisals is a matter for the consideration of the injured party. Acts done by way of reprisals must not, however, be excessive, and must not exceed the degree of violation committed by the enemy".

Basic Field Manual: Rules of Land Warfare: article 353.

"A. Definition. -Reprisals are acts of retaliation resorted to by one belligerent against the enemy individuals or property for illegal acts of warfare committed by the other belligerent, for the purpose of enforcing future compliance with the recognized rules of civilized warfare.

b. When and how employed. -Reprisals are never adopted merely for revenge, but only as an unavoidable last resort to induce the enemy to desist from illegitimate practices."

"c. Form of reprisal. -The acts resorted to by way of reprisal need not conform to those complained of by the injured party, but should not be excessive or exceed the degree of violence committed by the enemy."

"d. Procedure. -The rule requiring careful inquiry into the real occurrence will always be followed unless the safety of the troops requires immediate drastic action and the persons who actually committed the offence cannot be ascertained."

Considering that the Court is of the opinion that what is said in the above quotations about reprisals agrees with international law as that existed and held good during the present war;

that it appears from this that reprisals are only justified in the first place as an extreme measure which may only be applied when he who has violated the rules of war cannot be traced and punished;

that it is clearly shown by the evidence that the accused has never bothered about this, and although nothing has appeared as to the necessity for immediate action he never waited for the results of the investigation but always, and almost immediately after the act came to his knowledge, ordered a reprisal, and even in some cases did not bring a reprisal to an end although the perpetrator had meanwhile voluntarily reported himself, as happened among others at MASSIEUX;

that in this connection it is notable that "repressive" measures are repeatedly spoken of on the German side which is not the same as reprisals; that in the second place there must be a reasonable relation between the reprisal and the act against which it is directed; that the Court is of the opinion that this reasonable relation was always lacking, and certainly in all cases where innocent citizens were killed, because the Court considers it excessive to kill three or more innocent of the R.M.D., that it was also lacking in cases of collective fines, because these were generally imposed for unimportant offences, and in the measures taken against students in so far as these can be noted as reprisals for the murder of General SMITHARDI, because these measures were very extreme for the Netherlands students, resulted in the death of many of them and have seriously prejudiced the future of the Netherlands nation;

*Citizens
for the
murder
of one
German
or member*

Considering that the Court wishes further to add *that*, although the quotations cited above do not speak of it, it is of the opinion that a reprisal must be carried out openly or must be made public, because the object of a reprisal should be the compelling of the other party to keep to the rules of war in future and a deed done in secret has not got that object; that all belligerents in so far as the Court has been able to find out have always satisfied these conditions;

that it follows from this that the so-called "Silbertanne" murders, also the cases at REIDEN and SCORSE when the victims were shot dead in a so-called attempt to escape, cannot be considered as reprisals;

that on the contrary it must be considered as an expression of exceptional baseness and meanness when a person in authority, and that a policeman, commits an assassination or causes one to be committed in a territory where he has to keep peace and order;

- Considering -

Considering that the Court does not deem legally and convincingly proved that which has farther or otherwise been charged in the citation except in so far as it has been declared proved;

Considering that what has thus been proved constitutes the war crimes of:

With regard to that declared proved under I:

the continuous action of being an accessory in and by misuse of authority intentionally provoking the during the time of the present war when in the war or state service of the enemy being guilty of any war crime as provided for in Article 6 under B of the Charter belonging to the London Agreement of 8th August 1945 promulgated by Royal Decree of 4th January 1946 (Stat. Book No. G 5) containing this crime as also the elements of kidnapping and homicide, whereby the offender made use of the power offered him by the enemy, committed during the time of the present war before 15th May 1945, according to Netherlands Law;

With regard to that declared proved under II:

the continuous action of by misuse of authority intentionally provoking and being an accessory in the during the time of the present war when in the war or state service of the enemy being guilty of any war crime as provided for in Article 6 under B of the Charter belonging to the London Agreement of 8th August 1945 promulgated by Royal Decree of 4th January 1946 (Stat. Book No. G 5) containing this crime as also the elements of kidnapping, committed during the time of the present war before 15th May 1945, according to Netherlands Law;

With regard to that declared proved under III:

the continuous action of by misuse of authority intentionally provoking the during the time of the present war when in the war or state service of the enemy being guilty of any war crime as provided for in Article 6 under B of the Charter belonging to the London Agreement of 8th August 1945 promulgated by Royal Decree of 4th January 1946 (Stat. Book No. G 5) containing this crime, as also the elements of larceny, according to Netherlands Law;

With regard to that declared proved under IV:

the continuous action of the during the time of the present war when in the war or state service of the enemy being guilty of any war crime as provided for in Article 6 under B of the Charter belonging to the London Agreement of 8th August 1945 promulgated by Royal Decree of 4th January 1946 (Stat. Book No. G 5) containing this crime as also the elements of extortion, according to Netherlands Law;

With regard to that declared proved under V:

the continuous action of — by misuse of authority intentionally provoking and being an accessory in the during the time of the present war when in the war or state service of the enemy being guilty of any war crime as provided for in Article 6 under B of the Charter belonging to the London Agreement of 8th August 1945 promulgated by Royal Decree of 4th January 1946 (Stat. Book No. G 5) containing this crime as also the elements of kidnapping, committed during the time of the present war before 15th May 1945, according to Netherlands Law, committed several times;

With regard to that declared proved under VI:

the continuous action of the by misuse of authority intentionally provoking the during the time of the present war when in the war or state service of the enemy being guilty of any war crime as provided for in Article 6 under B of the Charter belonging to the London Agreement of 8th August 1945 promulgated by Royal Decree of 4th January 1946 (Stat. book No. G 5) containing this crime as also the elements of illegal deprivation of liberty, whereby the offender made use of the power offered him by the enemy, committed during the time of the present war before 15th May 1945, according to Netherlands Law;

-with-

With regard to that declared proved under VII:

the continuous action of committing, being an accessory and by misuse of authority intentionally provoking the during the time of the present war when in the war and state service of the enemy being guilty of any war crime as provided for in Article 6 under B of the Charter belonging to the London Agreement of 8th August 1945 promulgated by Royal Decree of 4th January 1946 (Stat. Book No. 65) containing this crime, as also the elements of extortion, larceny, illegal deprivation of liberty which act resulted in a number of cases in death, homicide and murder, whereby the offender made use of the power offered him by the enemy, committed during the time of the present war before 15th May 1945, according to Netherlands Law;

Considering that the above is based on the Court's opinion that the facts declared proved fall under the following provisions of the aforesaid Charter: murder, ill-treatment and deportation with a view to slave labour or for any other purpose, of the civil population of or in occupied territory, and the plundering of private property;

Considering that these are made punishable by articles 27a, 1, 2, 3, and 11 of the Extraordinary Penal Law Decree, 47, 56, 57, 273, 292, 297, 299, 310, and 317 of the Penal Code;

Considering that the Court unanimously judges that the accused is therefore punishable, no circumstances having appeared which would remove or exclude his liability to punishment;

Considering that the accused it is true has repeatedly appealed to orders received by him from SEYSS INQUARE or from Germany, but that in so far as this implies an appeal to article 43 of the Penal Code the Court rejects this appeal, because the facts declared proved are contrary to International Law, which not only binds individuals but also, and chiefly, states, so that no person in authority has the right to give orders which are contrary to this law and the accused, in view of his position and education and in view of the gravity of the acts, cannot reasonably have thought that these orders were lawful and permissible;

that it may be further remarked in this connection that accused has stated that the circumstance that it was his duty as an S.S. man to obey orders unconditionally played no part in his relations with SEYSS INQUARE, but even was this in fact the case the accused, by having in the first place voluntarily joined the S.S. and having voluntarily accepted the position of Hoofiers S.S. and Polizeifuehrer, placed himself in a position in which he could expect such conflicts and so must bear the responsibility for them;

Considering that although German law does not compel a soldier to obey an unlawful order, ^{and} also does not consider the obeying of an unlawful order as a grounds for exclusion from punishment, the accused has appealed to English law which, according to him, lays down that members of the armed forces who, obeying the orders of their Government or Commandant break rules holding good for war operations, cannot be punished; that the English Manual of Military Law did in fact contain such a provision (amendment 12 art. 443) but that this was amended in 1944 (amendment 34) that also the American Basic Field Manual which contained a similar provision (art. 347) has since been amended (Houston, page 303); that besides most writers on International Law are of the opinion that on this point these rules did not formerly correctly represent International Law (Copenhagen 6th edition page 432, British Yearbook of International Law, page 44, American Military Tribunal in the case against W. LIND);

Considering that the Court then also rejects the accused's appeal to superior orders, adding to this that it also will not consider this appeal as an extenuating circumstance because it has appeared at the sitting that, with one single exception, such as the abolition of the "Gerichtbarkeit", the accused, inwardly thoroughly approving of them, executed all these orders in the way in which they were finally carried out;

-considering-

Considering that an appeal has also been made to a state of emergency but that the Court rejects this defence as well, because every war calls into being a continuous, at any rate a repeated, state of emergency for both belligerents and the Rules of War, the very object of which is to lay down what may not take place in war, would have no sense if deviations were allowed from it on an appeal being made to a state of emergency;

Considering finally that as far as the Arbeitseinsatz is concerned the accused has appealed that he acted in the execution of statutory regulations, but that this appeal too must be rejected because nobody is allowed to violate the International Rules of War even should his national law oblige him to do so;

Considering that in determining the punishment the Court will not take into account the confiscation of wireless sets, because as has already been considered it can imagine that the judicial difference between confiscation and seizure escaped the accused, nor will it take into account the seizure of household effects from burgomasters and the like, because it considers the accused's responsibility for this measure to be very slight;

Considering that the Court judges the German measures against the Jews and with regard to the "Arbeitseinsatz" - the deportation of the students being included here - as being extremely serious crimes owing to the enormous extent they assumed; that it can be conceded that the accused's share in carrying out orders received in the matter from Berlin only consisted in taking those measures which belonged to his task as supreme police authority in the Netherlands, but that opposed to this is the fact that the accused's activities in these spheres formed an indispensable link in the whole chain of measures which were necessary to make this policy succeed in the Netherlands; that the accused carried out his task with full inward approval and did everything which lay in his power to make a success of this policy which caused immeasurable suffering;

Considering further that the accused carried out his task of keeping peace and order in this country in a callous and pitiless way, without paying any attention to the limitations of International Law or of humanity, and in doing so did not even refrain in several cases from committing assassinations or having such committed;

Considering that the Court can imagine that the accused thought it his duty to act thus, and will accept that he did so without hate and that his only motive was the consideration that the measures ordered or permitted by him were effective; ^{having} he thus allowed himself to be guided by the pernicious German doctrine regarding total war, according to which all demands of justice and decency could be put on one side and every brutal action was permissible if it could only serve the purpose of winning the war;

Considering that all this does not do away with the fact that the acts declared proved are so serious and the accused's responsibility for them so great that the Court deems the punishment to be announced called for;

Administering the Law:

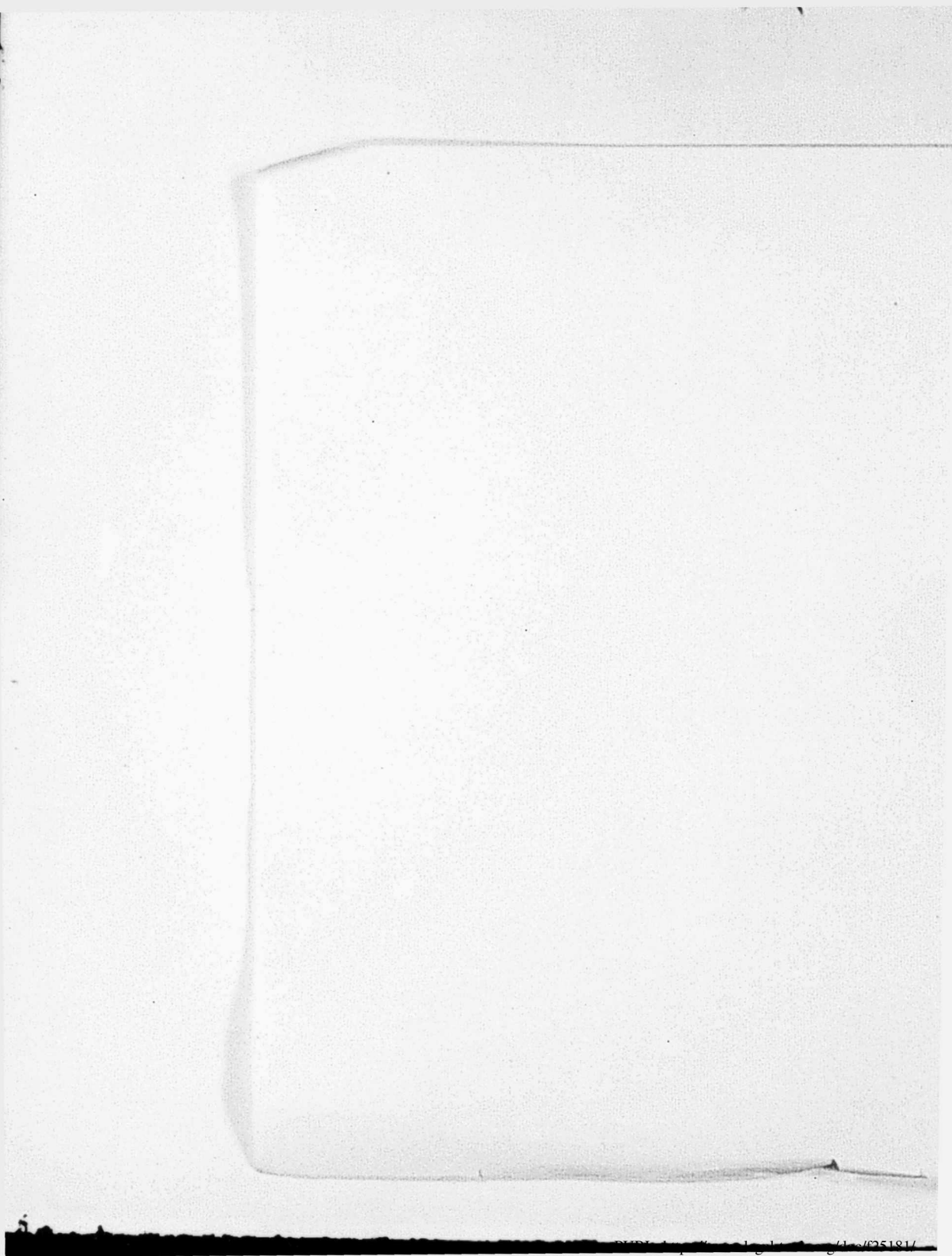
Declares the accused guilty of those crimes qualified and declared above as proved and that he is therefore punishable;

Sentences the accused on this account to DEATH;

Declares not proved that with which the accused is further or otherwise charged except in so far as has been declared above as proved;

Acquits him of this.

-Sentence-



-5-

Sentence passed by:

Mr. Dr. VAN NISSEN

Dr. MEDENDORP

Maj. General WILHELM

In the presence of:

Dr. FROEDS

President

Judge

Military Judge

Clerk of the Court

and pronounced at the public sitting of the aforesaid Special Court at 4.30 p.m.
on 4th May 1940.

s/ VAN NISSEN
D. MEDENDORP
T. E. THINAR
O. C. FROEDS.